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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91211873
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

GREEN IVY EDUCATIONAL CONSULTING, LLC,	:	
Opposer,	:	Opposition No. 91211873
-against-	:	Serial Nos.: 85775379, 85775380 and 85775382
GREEN IVY HOLDINGS LLC,	:	
Applicant.	:	Marks: GREEN IVY, GREEN IVY SCHOOLS and GREEN IVY LEARNING

OPPOSERS' MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT

Green Ivy Educational Consulting, LLC (“Opposer” or “GIEC”), hereby moves, pursuant to 37 C.F.R. § 2.120(g) and Rule 37 of the Federal Rules of Civil Procedure (“FRCP”), as well as 37 C.F.R. § 2.127 and FRCP 56, for an order granting sanctions and judgment, or, in the alternative, summary judgment in favor of Opposer refusing registration of GREEN IVY, Serial No. 85775379, GREEN IVY SCHOOLS, Serial No. 85775380, and GREEN IVY LEARNING, Serial No. 85775382 (collectively, the “Marks Under Application”), filed by Green Ivy Holdings LLC (“GIH” or “Applicant”). Opposer submits this brief in support of its motion.

PRELIMINARY STATEMENT

It is undisputed that Opposer is the senior user of the GREEN IVY mark; indeed Opposer GIEC had been continuously using the GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING marks in commerce for more than eight years before Applicant even filed its intent to use applications. The undisputed facts also establish a clear likelihood of confusion as to the origin of Applicant and Opposer’s goods and services – not only are the marks at issue exactly the same (or the same in dominant part), but the educational services provided and trade channels utilized by each are extremely similar (if not actually identical). Moreover, despite the

fact that Applicant has only been in operation since the fall of 2013, there have already been several instances of actual confusion (including one instance in which Applicant acknowledged at the time that the request for services it had received was “meant for” GIEC). As Applicant begins the intended expansion of its scope of services – which directly overlap with the services offered or intended to be offered by GIEC – the likelihood of confusion will only increase. Thus granting registration to the Marks Under Application would be improper.

GIH has also willfully avoided discovery and engaged in dilatory tactics in this proceeding. GIH’s cavalier attitude towards its obligations, including its repeated failure to provide complete discovery (despite an order compelling it to do so) warrants sanction, including the grant of judgment for GIEC. Even absent such a sanction, however, the undisputed evidence can lead only to a grant of summary judgment and a denial of GIH’s applications for registration.

FACTS

History of the GIEC Mark

It is undisputed that GIEC’s use of the marks GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING (together, the “Mark”) commenced in March 2004, over eight years before the filing of the intent to use applications by GIH on November 9, 2012 that are the subject of this opposition. Declaration of Anahita Homayoun (“Homayoun Decl.”) ¶ 8. From its initial use of the Mark to the present, Opposer’s exploitation of the Mark has been significant, continuous, and expanding. *Id.* at ¶¶ 8-21.

At least as early as 2004, GIEC provided academic and learning support services under the Mark to elementary and secondary school students during school hours and after school, including by assisting students in improving their understanding of academic subject matters. *Id.*

at ¶¶ 8-9. It is further undisputed that GIEC has continuously expanded the educational and consulting services it provides under the Mark over the past 10 years to include:

- general academic coaching for students in secondary and high school, provided at GIEC's San Francisco Bay area office and remotely via Skype (including to students in, *inter alia*, New York, London, Dubai, and Seattle);
- college admissions consulting for students in high school provided at GIEC's office and remotely via Skype to students across the country;
- analysis and evaluation of testing results when students undergo testing to diagnose learning disabilities;
- workshops, seminars, and presentations to parents of K-12 students across the country (including, for example, in New York and Los Angeles) on topics related to education, parenting, and child and adolescent development;
- consulting work directly with schools to develop solutions around promoting academic success, including curriculum development;
- developing products and services related to K-12 education and child and adolescent development; and
- distribution of an email newsletter and maintenance of a website that serve as a resource for parents, educators, and students in the field of education.

Id. at ¶¶ 10-21. GIEC currently works primarily with students in grades 5-12, though the audience for GIEC's work includes parents whose children are in grades K-12, as well as educators and school administrators. Id. As discussed in greater detail below, these services directly overlap with GIH's "educational services" and "consulting" services as set out in the Applications (and as further explained by GIH's testimony). See Declaration of Jennifer Philbrick McArdle ("McArdle Decl.") Exs. B-D (Applications); infra section II.D.3.

Beginning at least as early as June 2006, GIEC promoted its services by using the GREEN IVY mark on its website, www.greenivyed.com, as well as through emails to its email list (which at present includes over 1,100 individuals). Homayoun Decl. at ¶¶ 23-24. Since 2009, GIEC has also promoted its services through social media including Facebook and Twitter. See, e.g., id. at ¶¶ 16-18.

GIEC and GIEC founder Anahita ("Ana") Homayoun have also gained significant media and industry attention, confirming and furthering the national reputation of GIEC's Mark. GIEC

and Ms. Homayoun have appeared in the New York Times on several occasions, including on June 11, 2006, January 1, 2008, and most recently on May 8, 2014. Homayoun Decl. Exs. J-L. In addition to the New York Times, GIEC's work has been highlighted or mentioned by a wide variety of print and online publications (for example, the Chicago Tribune and the Huffington Post), as well as radio and television programs (for example, National Public Radio's Tell Me More, Wisconsin Public Radio, NY 1, and ABC News Now). Id. at ¶¶ 33-35. Ms. Homayoun has also published two books based on her work at GIEC, both of which associate Ms. Homayoun and the services she discusses with the Mark. Id. at ¶¶ 29-30. The books received significant critical acclaim. Id. at ¶¶ 30, 32. Both the media attention and the books resulted in many inquiries from consumers seeking GIEC's services. Id.; see also id. at Exs. G, H (requests for GIEC's services based on having read book).

Ms. Homayoun also appears publicly on behalf of GIEC to discuss her work at GIEC and the strategies honed and implemented at GIEC using the Mark, including those strategies highlighted in her written work. Ms. Homayoun makes these appearances in the media, at conferences and at schools. Id. at ¶ 19. These appearances also further the national reputation of GIEC's GREEN IVY mark and draw clients to GIEC. Id.

GIEC regularly receives inquiries from all over the United States, including but not limited to New York, California, Connecticut, New Hampshire, Massachusetts, Florida, North Carolina, Georgia, South Carolina, Illinois, Texas, Wisconsin, Virginia, Washington D.C., and Tennessee, as well as abroad. Id. at ¶ 20. As a result of its work over the past decade, GIEC has become known as a resource for parents and educators for educational guidance and support on child and adolescent development issues surrounding educational services, parenting, academic success, and overall child wellness. Id.

Applicant's Sanctionable Behavior

In this action, GIH has continuously sought to avoid its discovery obligations in an effort to stymie GIEC's opposition. As related in greater detail below and in the McArdle Declaration, GIH completely failed to respond to GIEC's requests for discovery until the Trademark Trial and Appeal Board (the "Board") ordered it to do so, and when it finally did respond only provided a total of 21 documents along with unverified, inaccurate and incomplete responses to written discovery. McArdle Decl. ¶¶ 11-23. GIH acknowledged at the deposition of its founder that its search and production was incomplete, but to date, despite clear testimony establishing its discovery failures and representations from GIH's counsel that additional documents would be produced, GIH has provided only two additional documents and GIEC has not been able to obtain the discovery it requested (and the Board compelled). McArdle Decl. ¶¶ 27-44. GIH has never bothered to verify its interrogatory responses or make any effort to remedy the deficiencies in its production and fulfill its obligations under the Board's Manual of Procedure ("TBMP"), the FRCP, and the Board's February 20, 2014 order. It has also never provided any justification for its failures.

ARGUMENT

I. JUDGMENT IS APPROPRIATELY GRANTED FOR GIEC AS A SANCTION BASED ON APPLICANT'S PATTERN OF DISCOVERY ABUSES

GIH requests that the Board sanction GIH for its pattern of discovery abuses by striking GIH's answer and granting judgment for GIEC pursuant to 37 CFR § 2.120(g). Applicant has again and again delayed or failed to respond to GIEC's discovery requests and has willfully ignored its obligations under the TBMP and FRCP. Indeed, at the outset of this proceeding, after filing its answer GIH was almost entirely nonresponsive, failing to respond to GIEC's written discovery requests at all until the Board issued an order forcing it to comply with its discovery

obligations. Despite the Board’s order, to date there is substantial discovery outstanding and GIH has never provided verified responses to interrogatories.

The Board granted GIEC’s motion to compel discovery, ordering Applicant to “serve no later than THIRTY DAYS from [February 20, 2014] its full and complete responses, without objection, to opposer’s request for the production of documents and respond to opposer’s first set of interrogatories.” McArdle Decl. Ex. G (“Order”) (emphasis added). The Order also made clear that, “[i]n the event applicant fails to respond as ordered herein, the Board may entertain a motion for sanctions, including the entry of judgment pursuant to Trademark Rule 2.120(g), 37 CFR Section 2.120(g).” Id.

While Applicant eventually served written discovery responses after the thirty (30) day deadline had expired, its interrogatory responses were unverified and it produced only a total of 21 documents. McArdle Decl. ¶¶ 19, 20; id. at Exs. H (“Interrog. Resp.”), I (“Doc. Resp.”). GIH also refused to answer interrogatory four, instead interposing a relevance objection precluded by the Order. Order 1. In continued violation of the Order, to date GIH has not produced any documentation or provided other testimony sufficient to provide the information requested in this interrogatory, which was also requested in GIEC’s document requests. McArdle Decl. ¶ 36.

In addition, despite the Board’s Order, GIH’s initial production of documents was incomplete. First, as set out more fully in the concurrently-filed McArdle Declaration, it was clear from the face of Applicant’s Response to First Request for Production (“Doc. Resp.”) that in the case of several requests no documents were produced despite Applicant’s representation that all responsive documents had been made available.¹ McArdle Decl. ¶ 23. In addition, the

¹ In some cases, GIH indicated that there were no documents available in response to a request by stating “None.” See generally Doc. Resp. However in the categories referenced here, GIH responded that “All responsive documents are available for inspection and copying at offices of undersigned counsel” but never made any such documents available. Id.; McArdle Decl. at ¶ 23.

deposition testimony of GIH's founder, Jennifer Jones, also made clear that many of the representations made in GIH's discovery responses were inaccurate or incomplete. By way of example, Jones stated that she had been instructed to limit her search for responsive documents to a "time frame" (rather than covering the entire limited lifespan of the GIH marks), but that she could not recall what time frame was applied. McArdle Decl. Ex. J ("Jones Dep. Tr.") 50:22-25; id. at ¶¶ 27-28. Moreover, Jones testified to several categories of documents requested by GIEC that had simply not been produced, and GIEC remains (despite the Board's Order that GIH respond to all requests without objection) without any documentation whatsoever regarding (1) GIH's investors, from whom Jones has acknowledged she raised funding based on the Green Ivy brand; (2) GIH financial records for sales and advertising using the mark at issue; (3) marketing advice provided by an outside public relations firm used by GIH to develop its public message using the marks at issue and assess its marketing targets and strategies; (4) documents regarding use of GIH's domain names, two of which incorporate the marks at issue; (5) promotional emails sent to the GIH email list, purportedly using the marks at issue; and (6) application and sign-up materials for the services allegedly provided using the marks at issue.² Id. at ¶¶ 36-44. The responses to interrogatories also indicated that GIH had failed to consult Jones in forming its responses (despite the fact that she clearly held responsive information).³ Interrog. Resp. ¶ 32. It

² In addition, GIEC believes based on the testimony of Jennifer Jones that GIH's minimal production of GIH advertisements, open house materials, and spreadsheets demonstrating GIH's name selection process are woefully inadequate and omit substantial documentation. McArdle Decl. ¶¶ 36-44.

³ According to her testimony, Jones was not provided with GIEC's discovery requests, nor had she reviewed Applicant's Responses. Jones Dep. Tr. 87:7-18 (document requests); id. at 147:19-148:5, 159:1-20, 161:18-162:10 (interrogatories). Jones testified that the only time she collected documents was in response to a request from Jonathan Sanchez-Jaimes that she "share with him any e-mails or other documentation that defined the development of our Green Ivy name and brand." Id. at 88:5-7; see also id. at 159:18-20 ("Jonathan asked me to provide documentation of when I created the name Green Ivy. It's the only thing I've been asked for."). As set out below and in the McArdle Declaration, Jones clearly had information relevant to GIEC's discovery requests (which were in no way limited to documents regarding the selection of the name Green Ivy). She either wasn't asked for it, didn't provide it at the time, or it was disregarded in the preparation of Applicant's responses. To the extent that Mr. Sanchez-Jaimes is a person with knowledge or relevant documents, Opposer notes that Applicant's production was

is thus clear that GIH has violated the Board's Order, since it did not provide "full and complete responses" to GIEC's discovery demands despite ample opportunity to do so.

At the Jones deposition, counsel for GIEC again reiterated its demand for this information, and counsel for GIH represented that he would work with GIH to ensure all responsive documents were produced. See McArdle Decl. ¶¶ 30, 36-44. Yet once again GIH failed to comply with its obligations, providing no additional documents in response to GIEC's continued requests until May 22, 2014 – more than a month after the close of discovery. That day, GIH produced just four documents – two of which appear to be duplicative of documents already produced. McArdle Decl. ¶¶ 31-34. It is thus clear that there is substantial disclosure outstanding with respect to all six of the categories outlined above, as well as other topics for which only minimal disclosure was provided. Id. at ¶¶ 36-44. Not even an order of the Board containing the threat of sanctions and GIH's continuing obligation to provide complete disclosure pursuant to TBMP 408.03 and FRCP 26(e) were sufficient to compel GIH to comply with its discovery obligations.

A. The Board Should Grant Judgment As a Sanction for GIH's Conduct

Where – as here – "a party fails to comply with an order of the Trademark Trial and Appeal Board relating to disclosure or discovery... the Board may make any appropriate order, including those provided in Rule 37(b)(2) of the Federal Rules of Civil Procedure." 37 C.F.R. § 2.120(g). As TBMP 527.01(a), makes clear,

The sanctions which may be entered by the Board include, inter alia, striking all or part of the pleadings of the disobedient party; refusing to allow the disobedient party to support or oppose designated claims or defenses; prohibiting the disobedient party from introducing designated matters in evidence; and entering

devoid of a single document referencing Mr. Sanchez-Jaimes in connection with the Marks Under Application. McArdle Decl. ¶ 21.

judgment against the disobedient party. Default judgment is a harsh remedy, but may be justified where no less drastic remedy would be effective and there is a strong showing of willful evasion.

See also Benedict v. Superbakery Inc., 665 F.3d 1263, 1268-69, 101 U.S.P.Q. 2d 1089 (Fed. Cir. 2011) (affirming Board's entry of judgment as a discovery sanction for repeated failures to comply with Board's reasonable orders).

Applicant's total unresponsiveness to GIEC's initial discovery requests forced GIEC to seek relief from the Board. After the requested relief was granted, GIH's eventual responses to written discovery served by GIEC were not only incomplete, they also violated the FRCP, which require interrogatory responses to be signed and verified by the party providing the response. McArdle Decl. ¶ 21; see also FRCP 33(b)(3) (all interrogatories must "be answered separately and fully in writing under oath."); TBMP 405.04(b) (same). It is further clear based on the testimony of Jennifer Jones that GIH failed to comply with the Board's order to "serve ... full and complete responses, without objection, to opposer's request for the production of documents and respond to opposer's first set of interrogatories." Order 1 (emphasis added). After the Jones deposition, GIH represented that it would search for and produce additional documentation, but only two additional documents have been produced to date and it has still not provided a verification for its interrogatory responses. McArdle Decl. ¶ 30-34.

At no time has Applicant proffered any explanations or justifications, let alone good cause. These continued failings thus demonstrate a clear pattern of willful discovery abuses warranting sanction, and the Board should strike GIH's answer and grant judgment for GIEC. See, e.g., MHW Ltd. v. Simex, Aussenhandelsgesellschaft Savelsberg KG, 59 U.S.P.Q. 2d 1477, 1478-79 (TTAB 2000) (repeated failure to comply with orders and unpersuasive reasons for delay resulted in entry of judgment); Baron Philippe de Rothschild S.A. v. Styl-Rite Optical Mfg. Co., 55 U.S.P.Q. 2d 1848, 1854 (TTAB 2000) (pattern of dilatory conduct indicated willful

disregard of Board order and resulted in entry of judgment); Corporacion Habanos, S.A. v. Cigar King, Ltd., Cancellation No. 92053245, 2013 WL 6056505 (TTAB June 12, 2013) (granting judgment as sanction where respondent failed without justification to comply with Board order despite warning of possible result of noncompliance).

This is particularly true where, as here, the party is represented by competent counsel that clearly had knowledge of the continued failures.⁴ Cf. Electronic Indus. Assn. v. Potega, 50 U.S.P.Q. 2d 1775, 1778 (TTAB 1999) (granting lesser sanction than judgment because applicant was *pro se* and disclosure actually included information requested). Here, where Applicant has repeatedly ignored its responsibilities and has not cured deficiencies despite multiple opportunities to do so, a lesser sanction such as precluding the Applicant's reliance on late-provided materials would be insufficient and would effectively reward the willful behavior by allowing documents and information to be kept out of the proceeding.

II. SUMMARY JUDGMENT IS APPROPRIATELY GRANTED

A. There Are No Disputed Issues of Fact

Regardless of GIH's discovery failings and any sanction that may be authorized by the Board, summary judgment is appropriate because "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(c); see also Celotex Corp. v. Catrett, 477 U.S. 317, 322, 106 S. Ct. 2548, 2551 (1986). A dispute regarding a material fact is genuine "if the evidence is such that a reasonable jury could return a verdict for the nonmoving party." Anderson v. Liberty Lobby,

⁴ Here, counsel for GIH was at the very least aware of (1) GIH's failure to respond in any way prior to the motion to compel, (2) the lack of any documents produced in certain categories requested by GIEC (despite the representation in GIH's responses that all documents had been produced), (3) GIH's failure to verify and improper objection in the interrogatory responses, and (4) at least as of the deposition of Jennifer Jones, the numerous deficiencies in the documents produced.

Inc., 477 U.S. 242, 248, 106 S. Ct. 2505 (1986); Sweats Fashions, Inc. v. Pannill Knitting Co., Inc., 833 F.2d 1560, 1562 (Fed. Cir. 1987). A movant can meet its burden by pointing out the non-movant's failure to come forward with evidence as to those elements that she would have to prove at trial. See Celotex, 477 U.S. at 324. Once the moving party has made an initial showing, the burden of proof shifts to the opposing party. See id. To meet its burden and defeat the motion, the nonmoving party must go beyond the pleadings and designate specific facts which establish a genuine issue for trial. Id. A mere scintilla of evidence supporting the nonmoving party's position will not suffice; there must be enough of a showing that the fact finder could reasonably find for that party. See Sweats Fashions, Inc., 833 F.2d at 1564.

To prevail on the asserted ground of likelihood of confusion, Opposer must demonstrate that it has standing to maintain the Opposition, there is no genuine issue of fact that it has prior trademark rights in its mark, and that the applicant's mark, when used in connection with the applicant's services, is likely to cause confusion with the opposer's pleaded mark. See, e.g., Hornblower & Weeks, Inc. v. Hornblower & Weeks, Inc., 60 U.S.P.Q. 2d 1733, 1735 (TTAB 2001).

B. Opposer has Standing to Challenge Registration of Applicant's Marks

As discussed below, Opposer has presented uncontroverted evidence that GIEC used the mark GREEN IVY in commerce in connection with educational services beginning at least as early as 2004 and continuously since then. See Homayoun Decl. ¶ 8-21. GIEC's use of the Mark in commerce and the damage it would suffer should the Applications be granted is sufficient to establish its standing to oppose registration of Applicant's marks. See Herbko Int'l, Inc. v. Kappa Books, Inc., 308 F.3d 1156, 64 U.S.P.Q. 2d 1375 (Fed. Cir. 2002); Jewelers Vigilance Comm., Inc. v. Ullenberg Corp., 823 F.2d 490, 493 (Fed. Cir. 1987).

C. Opposer is the Undisputed Senior User and Sole Owner of the Green Ivy Mark

To establish priority in an opposition brought on grounds of likelihood of confusion, GIEC must prove that, vis-à-vis Applicant GIH, it owns “a mark or trade name previously used in the United States... and not abandoned....” 15 U.S.C. § 1052(d). GIEC may establish its own prior proprietary rights in a mark through showing its actual use of the Mark. 2 *McCarthy on Trademarks and Unfair Competition* § 16:1 (4th ed.). Indeed both the common law and the Lanham Act accord ownership rights to the first bona fide user of a mark. Hydro-Dynamics, Inc. v. George Putnam & Co., Inc., 811 F.2d 1470, 1472, 1 U.S.P.Q. 2d 1772, 1773 (Fed. Cir. 1987); Johnny Blastoff Inc. v. Los Angeles Rams Football Co., 188 F.3d 427, 434 (7th Cir. 1999) (“The party who first appropriates the mark through use, and for whom the mark serves as a designation of source, acquires superior rights to it.” (citation omitted)).

Here, Applicant filed its intent to use applications to register three marks, all primarily composed of the words “GREEN IVY,” on November 9, 2012.⁵ McArdle Decl. Exs. B-D. Applicant has acknowledged that it had not used the Marks Under Application as of the time of the Applications. See, e.g., Jones Dep. Tr. 49:3-15. The earliest date of Applicant’s use of those marks in commerce evident from the record is an undisclosed date in the fall of 2013.⁶ Id. at 90:2-5, 143:2-145:7.

In stark contrast, the record includes clear and convincing evidence that Opposer’s use of the GREEN IVY mark pre-dated by at least eight years both the filing of the Applications and any subsequent use by Applicant of the Marks Under Application. Ms. Homayoun’s affidavit

⁵ Specifically, GIH filed applications to register the marks GREEN IVY (Serial No. 85775379), GREEN IVY SCHOOLS (Serial No. 85775380), and GREEN IVY LEARNING (Serial No. 85775382). The November 9, 2012 applications were subsequently amended on June 10, 2013.

⁶ Jones’ testimony and Applicant’s limited discovery responses are at best deficient and at worst inconsistent on the actual date of first use for GIH’s GREEN IVY mark, but regardless, any of the potential dates are several years later than Opposer’s date of first use, as discussed below. Compare, e.g., Interrog. Resp. ¶ 9 with Jones Dep. Tr. 90:2-5, 143:2-145:7, 161:3-9.

establishes that the use of the Mark by GIEC began in March 2004, eight and a half years prior to the filing of the Applications and nine and a half years prior to the Applicant's date of first use. Homayoun Decl. ¶ 5. Throughout the period from 2004 to the present, GIEC has exploited the Mark and worked to expand the use of the Mark to new goods and services in new media and in new markets. Id. at ¶¶ 8-22.

The undisputed facts thus clearly establish GIEC's senior use and common law ownership rights in the Mark. See, e.g., Johnny Blastoff Inc., 188 F.3d at 435 (“[A] trademark application is always subject to previously established common law trademark rights of another party.”).

D. A Likelihood of Confusion Clearly Exists Between Opposer's GREEN IVY Mark and the Marks Under Application

This matter involves a clear case of likelihood of confusion. In fact, as discussed below, both of the two key considerations in the relevant analysis – the similarities between the marks and the similarities between the goods and/or services – weigh strongly in favor of a finding of likely confusion: Applicant's marks are identical or nearly so to Opposer's Mark and GIH and GIEC both use or intend to use the mark GREEN IVY in connection with the same educational and consulting services. Compare McArdle Decl. Ex. A (GIEC Application) with McArdle Decl. Exs. B-D (the Applications); see Federated Foods, Inc. v. Fort Howard Paper Co., 544 F.2d 1098, 1103, 192 U.S.P.Q. 24, 29 (CCPA 1976); see also In re Chatam Int'l Inc., 380 F.3d 1340, 1341-42 (Fed. Cir. 2004).

Other factors to be considered in the likelihood of confusion analysis also weigh in favor of a finding of likely confusion, including: (1) the strength of the mark; (2) the similarity or dissimilarity of established, likely-to-continue trade channels; (3) the nature and extent of any actual confusion; and (4) the extent of potential confusion. See In re E.I. DuPont de Nemours &

Co., 476 F.2d at 1361. In addition, Applicant did no trademark searching – or even a search via Google – in an effort to determine whether there was a prior existing user before filing the Applications, and it is well settled that a junior user who adopts a mark similar to another without searching prior users does so at her own peril.

When the relevant inquiries are undertaken and the undisputed facts considered, it is apparent that there is a strong likelihood of confusion should the Applications be granted, and that summary judgment is appropriately entered in favor of Opposer.

1. GIEC's Mark Is Strong

GIEC's GREEN IVY mark is a strong mark, since it is arbitrary in connection with educational services and it has been in use for a decade. See Dreamwerks Production Group, Inc. v. SKG Studio, 142 F.3d 1127, 1130 (9th Cir.1998) (conceptual strength relates to the distinctiveness of the mark, for example whether it is “arbitrary or fanciful,” “suggestive,” or is merely “descriptive”); Frehling Enter., Inc. v. Int'l Select Group, Inc., 192 F.3d 1330, 1335 (11th Cir.1999) (a mark is arbitrary or fanciful if it bears no relationship to the product or service). An arbitrary trademark like Opposer's GREEN IVY mark is entitled to the highest level of trademark protection. Frehling Enter., Inc., 192 F.3d at 1335.

GIEC's Mark is also well-known, as its products and services began gaining public recognition so as to be identified as a designation of source soon after GIEC's initial use of the Mark. As early as 2006, the Mark was identified with GIEC in national media coverage,⁷ and on January 1, 2008, GIEC received in-depth national media attention identifying the Mark with

⁷ Similarly, since June 2006 GIEC has owned and maintained a website using the GREEN IVY mark (www.greenivyed.com) that has been publicly available on the world wide web. Homayoun Decl. at ¶ 24. Since at least as early as that date, GIEC has used the Mark to promote its services through the website, as well as through email newsletters sent to its email list (which currently includes approximately 1,100 email addresses). Id. at ¶¶ 17, 24-25. GIEC established its presence on social media by creating an active account on Facebook as of July 12, 2009. Id. at ¶ 18. All of these uses of the Mark predate any even arguable date of first use by GIH.

Opposer's services through an article in the New York Times that appeared on the front page of the National section. Homayoun Decl. ¶ 27; *id.* at Ex. K. As a result of that press coverage, GIEC received a significant increase in requests for its services, and GIEC began providing its services to customers throughout the United States and abroad. *Id.* at ¶ 27; *see also, e.g., id.* at Exs. G, H. GIEC and its founder, Ana Homayoun, have continued to receive substantial media attention as a result of GIEC's services offered under the Mark, which attention only serves to further the strength of the Mark. *Id.* at ¶¶ 19, 33-36. Thus, the strength of the Mark weighs in GIEC's favor in the likelihood of confusion analysis.

2. The Marks or Dominant Portions Thereof Are Identical

The similarities between the marks at issue here are obvious.⁸ Indeed one of the Marks Under Application, GREEN IVY, is identical to GIEC's GREEN IVY mark. Moreover, the dominant element of all of the marks is "GREEN IVY" – the only distinction at all is the addition of a subsequent descriptive word in the remaining two of the Marks Under Application by Applicant: GREEN IVY SCHOOLS and GREEN IVY LEARNING. Where, as here, "the 'dominant' portion of both marks is the same, confusion may be likely, notwithstanding peripheral differences." 4 *McCarthy on Trademarks and Unfair Competition* § 23:44 (4th ed.). Here, the addition of descriptive terms in no way change the overall appearance or impression created by the marks when they are viewed by consumers.⁹ *See, e.g., A & H Sportswear Co.,*

⁸ Opposer is the senior user of the marks GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING. Applicant seeks to register the GREEN IVY, GREEN IVY LEARNING, and GREEN IVY SCHOOLS marks.

⁹ It is well settled that a descriptive or generic term is not the dominant portion of a mark. *See In re Dixie Restaurants, Inc.*, 105 F.3d 1405, 1407, 41 U.S.P.Q. 2d 1531, 1533 (Fed. Cir. 1997) (holding that DELTA is the dominant portion of the mark THE DELTA CAFÉ where the disclaimed word CAFÉ is descriptive of applicant's restaurant services); *Giant Food, Inc. v. Nation's Foodservice, Inc.*, 710 F.2d 1565, 1570-71, 218 U.S.P.Q. 390, 395 (Fed. Cir. 1983) (giving greater force and effect to the word GIANT as the dominant portion of the mark GIANT HAMBURGERS); *Burton-Dixie Corp. v. Restonic Corp.*, 234 F.2d 668, 669-70, 110 U.S.P.Q. 272 (CCPA 1956) (descriptive words, "which ha[ve] little trademark significance will not be regarded as the dominant part of the mark" (citation omitted)). Moreover, GREEN IVY is also the first words of the two Marks Under Application with additional wording, and "[i]t is often the first part of a mark which is most likely to be impressed upon the mind of a

Inc. v. Victoria's Secret Stores, Inc., 167 F. Supp. 2d 770, 783 (E.D. Pa. 2001). Indeed Applicant testified that “Green Ivy is our brand,” and generally refers to its services under any of the Marks Under Application by the shorthand “Green Ivy” in marketing and other public venues rather than adding the additional descriptors. See, e.g., Jones Dep. Tr. 94:23-95:13. This dominant portion of the marks is exactly the same as GIEC's GREEN IVY mark and the dominant portion of its GREEN IVY EDUCATIONAL CONSULTING mark. This factor, too, thus weighs heavily in favor of Opposer.

3. The Goods and Services Are Closely Related

It has long been “well-settled that the prior user and owner of a registered trademark is entitled to prevent subsequent registration by another of his mark, or one confusingly similar thereto, for any product which might reasonably be expected to be produced by the registrant in the normal expansion of his trade.” American Cyanamid Co. v. Humble Oil & Refining Co., 370 F.2d 598, 600 (CCPA 1966) (citation omitted). The question of likelihood of confusion must be determined based on an analysis of the goods recited in an applicant's applications vis-à-vis the goods shown to be in use by the opposer, rather than what applicant's goods are asserted or shown to actually be. See, e.g., Octocom Systems, Inc. v. Houston Computer Serv., Inc., 918 F.2d 937, 942, 16 U.S.P.Q. 2d 1783, 1787 (Fed. Cir. 1990) (collecting cases). The issue is not whether the parties' goods will be confused with each other, but rather whether the public will be confused as to their source. See Recot Inc. v. M.C. Becton, 214 F.3d 1322, 1328-29, 54 U.S.P.Q. 2d 1894, 1898 (Fed. Cir. 2000).

purchaser and remembered” when making purchasing decisions involving the services of the applicant and opposer. Presto Products Inc. v. Nice-Pak Products Inc., 9 U.S.P.Q. 2d 1895, 1897 (TTAB 1988); see also Palm Bay Imports, Inc. v. Veuve Clicquot Ponsardin Maison Fondee En 1772, 396 F.3d 1369, 1372, 73 U.S.P.Q. 2d 1689, 1692 (Fed. Cir. 2005); Mattel Inc. v. Funline Merch. Co., 81 U.S.P.Q. 2d 1372, 1374-75 (TTAB 2006).

It is also well settled that the goods of the parties need not be similar or competitive, or even offered through the same channels of trade, to support a holding of likelihood of confusion. Rather, “it is sufficient that the respective goods of the parties be related in some manner, and/or that the conditions and activities surrounding the marketing of the goods are such that they would or could be encountered by the same persons under circumstances that could, because of the similarity of the marks, give rise to the mistaken belief that they originate from the same source.” See Hilson Research, Inc. v. Society for Human Resource Mgmt., 27 U.S.P.Q. 2d 1423 (TTAB 1993) (citation omitted); In re Int’l Telephone & Telegraph Corp., 197 U.S.P.Q. 910 (TTAB 1978). Here, not only would Applicant’s and Opposer’s educational and consulting services clearly be “encountered by the same persons under circumstances that could... give rise to the mistaken belief that they originate from the same source,” *id.*, they are also in fact very similar, if not exactly the same.

The record demonstrates that GIEC has more than met the standard for establishing that this factor weighs strongly in favor of a finding of likelihood of confusion.

As GIH’s founder succinctly stated at her deposition, “we offer schools and education related services.” Jones Dep. Tr. 95:4-6. It is undisputed that Applicant seeks registration of the Marks Under Application in connection with the following services:¹⁰

- International Class 35: “Office administration services for schools”
- International Class 41: “Educational services, namely, providing pre-kindergarten through 12th grade classroom instruction; educational services, namely, developing curriculum for others; providing after school educational programs for children in prekindergarten through 12th grade; providing live and online educational services, namely, providing classes, workshops and

¹⁰ Applicant includes the following services in the applications for the GREEN IVY LEARNING and GREEN IVY marks, however the GREEN IVY SCHOOLS application includes only a slight variation of the services listed here for International Class 41. See McArdle Decl. Exs. B-D (Applications). Ms. Jones testified at her deposition, however, that the services to be offered using all three of the Marks Under Application are the same. Jones Dep. Tr. 57:19-58:4.

seminars in the field of primary education for grades prekindergarten through 12th grade”

- International Class 42: “Testing, analysis and evaluation of the goods and services of others for the purpose of certification, namely, software, toys, books, classroom materials and lesson plans in the fields of education and parenting”

McArdle Decl. Exs. B-D (Applications); see also, e.g., Jones Dep. Tr. 57:19-58:4; 53:24-54:3 (testifying that Marks Under Application will be used in connection with these services). At her deposition, Jones explained that GIH will “develop[] curriculum for others” by, for example, working with “an entity that wants to develop a new school and they seek us out for help with developing a curriculum because they like what we’re doing in one of our own schools, we would offer that service.” Id. at 39:19-40:17 (describing service as a “consulting” service). Jones further clarified that “testing, analysis and evaluation of the goods and services of others” set out in the Applications addresses its intention “to become an organization that parents trust when seeking out resources” including by “develop[ing] the [Green Ivy] brand so that parents find value in any product or service we recommend.” Id. at 46:11-47:18.

In addition to these services, Jones testified that GIH intends to provide “learning products... software, curriculum, learning materials,” as well as services online including “workshops, classes, resources, information, instruction, networks, [and] networking opportunities online.”¹¹ Jones Dep. Tr. 22:9-13, 45:17-22; see also id. at 26:7-20 (stating plans to open schools nationally and internationally under the GREEN IVY mark). GIH also envisions “seminars for parents becoming more of a part of what we want do.” Id. at 43:13-16.

¹¹ Similarly, GIH confirmed in its responses to interrogatories that it offers or intends to offer each of the following as branded products or services under the Marks: “a. Websites featuring information on education or educational services; b. Printed or online advice columns or other publications regarding education or educational services; c. Books; d. Audio books; e. Podcasts; f. Blogs; g. Seminars or speaking engagements; h. Printed instructional materials; [and] i. Online instructional materials.” McArdle Decl. Ex. F (“Interrogs.”) ¶ 11; Interrog. Resp. ¶ 11 (“Green Ivy does, or intends to offer, all of the services listed...”).

It is also clear that Opposer GIEC offers “educational services” and “consulting” services under the Mark, including academic coaching, workshops and seminars on topics relating to education, curriculum development, educational product development, and distribution of an email newsletter as a resource for parents in connection with other educational goods and services. Homayoun Decl. ¶¶ 8-21; see also McArdle Decl. Ex. A (GIEC Application).¹²

There is thus clear overlap between each and every one of GIEC’s services and those offered or intended to be offered by GIH. Indeed Jones expressly stated that when she reviewed GIEC’s work she felt “aligned with the point of view that [GIEC founder Ana Homayoun] had.... I felt an alignment with that general theme.” Jones Dep. Tr. 153:11-154:12; see also *id.* at 154:13-16 (“Q. ... your educational philosophies seemed to align? A. That was my impression based on what I read.”). Certainly consumers would be likely to confuse educational services that seemingly incorporate the same philosophies, both using the GREEN IVY mark.

As filed in GIH’s Applications and clarified and expanded in Applicant’s responses to interrogatories and Jones’ testimony, GIH’s services directly conflict with GIEC’s current use of GREEN IVY for educational services, as well as with the products and services in the natural area of expansion of GIEC’s trade. Applicant will no doubt attempt to distinguish GIH’s services by arguing that GIH provides schools, and not the tutoring and lectures provided by GIEC.

However, not only are these services all related educational services that would be “encountered by the same persons under circumstances that could... give rise to the mistaken belief that they

¹² In its own application to register the mark GREEN IVY, GIEC seeks to register its mark in International Class 41 for use with the following goods and/or services: “Career and educational counseling, namely, providing advice concerning the college application process and education options; Consultation for K-12 educational systems in the field of student organization, student time management, and education technology options; Education services, namely, providing K-12 classroom instruction in the field of organization and time management; Educational services, namely, conducting workshops and courses for parents, educators and students in the fields of education, time management, college and post graduate program admission and educational assessment test preparation and distribution of training materials in connection therewith; Educational services, namely, developing curriculum for educators.” McArdle Decl. Ex. A.

originate from the same source,” Hilson Research, Inc., 27 U.S.P.Q. 2d 1423, it also is clear that there is direct overlap in many of the services being provided or that are intended to be provided by GIH, including but not limited to the provision of academic coaching, lectures to parents, and curriculum consulting, among others.

4. Other Factors to Consider

a. The Services Will Be Marketed in Identical Channels

Since there is no restriction of the channels of trade in the Applications filed by GIH, the goods must be assumed to travel in all typical channels for services of that type. See Hewlett-Packard Co. v. Packard Press Inc., 281 F.3d 1261, 1268 62 U.S.P.Q. 2d 1001 (Fed. Cir. 2002) (citation omitted); CBS Inc. v. Morrow, 708 F.2d 1579, 1581, 218 U.S.P.Q. 198, 199 (Fed.Cir.1983) (the issue of likelihood of confusion is resolved by considering the “normal and usual channels of trade and method of distribution.”).

As clearly demonstrated by Opposer, the Internet and electronic communications (including social media), print publications, schools, and conferences or workshops are the primary channels of trade for its services under the GREEN IVY mark, all of which overlap with the above. See, e.g., Homayoun Decl. ¶ 23. The uncontroverted evidence establishes that these trade channels are the same as those used by GIH. Specifically, in its responses to interrogatories, GIH stated that the actual trade channels through which GIH has sold or offered or intends to sell or offer its goods and services using the Marks Under Application include “the Internet and traditional media publications.” Interrogs. ¶ 13; Interrog. Resp. ¶ 13. Jones also testified that Applicant offers educational services: (1) through print and online media publications and materials; (2) online via its website at www.greenivy.com or www.greenivyschools.com, email communications and social networking sites; and (3) through its schools, which will eventually include students ages pre-kindergarten through 12th grade.

See, e.g., Jones Dep. Tr. 65:22-67:3; Interrog. Resp. ¶¶ 11, 13. In addition, Jones and others at GIH attend conferences and school information fairs in order “to build relationships with other people from other schools or other organizations that might be good partners for us... to spread the word about what we’re doing....” Jones Dep. Tr. 67:4-23; 68:7-24.

Moreover, the undisputed facts establish that Opposer and Applicant use the same channels for marketing and promotion of their services. See Homayoun Decl. ¶¶ 17, 19, 25; (services advertised through “email newsletters, blog posts, print and online media, GIEC’s website” and other written work and speaking engagements by Ms. Homayoun); Interrog. Resp. ¶ 18 (identifying “the Internet and traditional media publications” as the channels through which GIH has advertised or promoted or intends to advertise or promote its goods or services).

Finally, it is clear that the target audience for GIH and GIEC’s educational services are the same. Opposer’s services are targeted to a wide general audience including parents of K-12 students, educators, school administrators, and K-12 students. Homayoun Decl. ¶ 26. Similarly, Jones testified that GIH retained a public relations firm to help it develop the marketing strategy for its services, targeting parents of school-age children as well as “partners who offer those [enrichment] services who are interested in partnering,” though no documents reflecting this advice have been produced.¹³ Jones Dep. Tr. 76:24-77:8.

There is thus absolutely no doubt that the channels of trade and promotion, as well as the existing and intended audience for the services, are extremely similar, if not exactly the same.

¹³ Applicant also admits the services offered or intended to be offered under the Marks Under Application are intended to be used by students and their parents, with the primary target for marketing using the GREEN IVY mark being the parents of students ages 2 through 12th grade. See, e.g., Jones Dep. Tr. 29:19-30:6, 77:2-8; Interrog. Resp. ¶ 12. With respect to the “testing, analysis and evaluation of goods and services of others” that GIH intends to engage in, Jones expressly testified that GIH does not view its potential customer base as limited in any way. Jones Dep. Tr. 46:11-47:15.

b. The nature and extent of any actual confusion.

While “[o]ne merely has to show that the likelihood of confusion exists,” “[t]here can be no more positive or substantial proof of the likelihood of confusion than proof of actual confusion.” World Carpets, Inc. v. Dick Littrell’s New World Carpets, 438 F.2d 482, 489 (5th Cir. 1971) (citations omitted, emphasis added). Here, Applicant GIH has only been offering its services for less than a year and has not yet begun to offer the full scope of its intended services, but there have already been several instances of actual confusion as to the origin of services offered by GIH and GIEC under the GREEN IVY mark. This factor thus also weighs strongly in favor of refusing the Applications. See, e.g., 2 Gilson on Trademarks § 5.04[1] (“if there are documented instances of factual confusion where the marks have been simultaneously used in the marketplace for only a short time, courts view such evidence as strongly supporting likelihood of confusion” (citation omitted)).

First, as soon as Applicant was mentioned in a widely circulated newspaper on March 27, 2013, Jones testified that she was contacted by a parent who asked Jones whether GIH “is the same Green Ivy” as the “Green Ivy in California.” Jones Dep. Tr. 132:12-133:3, 145:8-14.

Second, around the same time, on or about March 30, 2013, GIEC received a call from a potential vendor in which the caller stated that she understood GIEC to be opening a school on Wall Street in New York, NY. See generally Declaration of Emily Morrow; see also Homayoun Decl. ¶¶ 46-47. Of course, that school was to be opened by Applicant, not GIEC.

Third, GIH acknowledged that it received an email on September 2, 2013, which Jones understood to be intended for GIEC, and that – based on that belief – Jones forwarded the email to Ms. Homayoun after receiving it. Jones Dep. Tr. 147:9-10, 148:10-11; see also Homayoun Decl. Ex. Q (email from Jones to Homayoun, forwarding inquiry: “I think the note below was meant for you”). This email had been received by GIH at the web address info@greenivy.com

from an individual named Colleen O’Kane. Ms. O’Kane asks for “information on your fees and availability for this school year,” stating that she has “read your book and a friend’s son goes there for tutoring.” Id. In addition to this specific instance of clear confusion, Jones herself acknowledged that, given the similarity between the general inquiry email addresses – and domain names generally – in use by GIH and GIEC (GIH’s inquiry email address is info@greenivy.com, while GIEC’s inquiry email address is info@greenivyed.com), it surprised her that she has only seen one email that demonstrating confusion. Jones Dep. Tr. 152:16-153:2.

Fourth, GIEC has received mail at its address in California that is addressed to GIH founder Jennifer Jones as “Founder and CEO of Green Ivy Educational Consulting.” See Homayoun Decl. ¶ 48; id. at Ex. P (mail received by GIEC from potential vendor). Obviously Ms. Jones is not the founder of GIEC, but instead of GIH, despite the confusion evidenced on the part of the sender of this mail.

Fifth, on February 14, 2014, Ms. Homayoun gave a presentation at the Learning and the Brain Conference in San Francisco, California. Id. ¶ 51. After that conference – attended by several thousand people, including educators, school administrators and other education experts – Ms. Homayoun was interviewed by Nicholas Gillon, the Educational Director at an independent school in Washington State. Id. at ¶ 52; Declaration of Nicholas R. Gillon (“Gillon Decl.”) ¶¶ 2, 7. Mr. Gillon assumed GIH and GIEC were affiliated given the similar names and educational services offered, and only after speaking with Ms. Homayoun did he understand them to be unrelated. Gillon Decl. ¶¶ 6-9.

Each of these instances demonstrates actual confusion. It is remarkable that, given that GIH has only been offering its services for approximately a year, and has only offered them in the limited geographic area of Lower Manhattan in New York, there have been so many

instances of clear confusion among the consumers of GIH's and GIEC's services: parents, vendors, and educational administrators. This confusion only serves as further evidence that where, as here, the services offered by GIH and GIEC are so similar, and the marks identical, actual confusion is likely to occur.

c. The extent of potential confusion.

As GIH expands beyond its current scope of service, confusion is only more likely. This is because the services GIH intends to offer as it expands overlap nearly entirely with services either already offered or intended to be offered by GIEC, targeting the exact same students and parents as those that serve as GIEC's customers. See supra sections II.D.3,4. Jones herself testified she is surprised that there hasn't already been more confusion to date given the similarity of the inquiry email addresses and domain names used by the two entities (both of which use the GREEN IVY mark). Jones Dep. Tr. 152:16-153:2; see also Garden of Life, Inc. v. Letzer, 318 F. Supp. 2d 946, 962 (C.D. Cal. 2004) (website domain names confusingly similar when consist of phrases that are only slight variations from the mark). If GIH is permitted to register the Marks Under Application, its use of those marks will only serve to foster greater and greater confusion.

d. Applicant did no trademark searching – or even a search via Google – in an effort to determine whether there was a prior existing user before filing the Applications.

"It is well settled that a junior user who adopts a mark similar to another without searching for prior users does so at his peril, as courts regularly resolve doubt against a junior user." See 4 McCarthy on Trademarks and Unfair Competition § 23:65 (4th ed.) (citation omitted); see also Hewlett-Packard Co., 281 F.3d at 1265 ("This court resolves doubts about the likelihood of confusion against the newcomer because the newcomer has the opportunity and obligation to avoid confusion with existing marks." (citation omitted)). Yet it is undisputed that

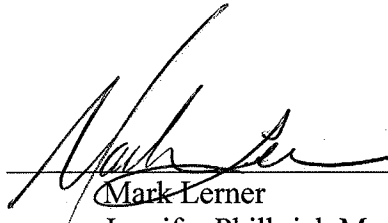
GIH conducted no trademark or prior use searching whatsoever prior to selecting its name and filing the Applications, instead searching only for available domain names and corporate name availability in New York and Delaware. See, e.g., Interrog. Resp. ¶ 6. GIH did not even conduct a search via Google to determine whether there were any senior users. Jones Dep. Tr. 131:1-132:2. GIH cannot obtain the rights to a trademark already owned by GIEC simply by sticking its head in the sand and ignoring the existing senior user, yet this is exactly what it has continued to do. See, e.g., Int'l Star Class Yacht Racing Assn. v. Tommy Hilfiger, USA, Inc., 80 F.3d 749, 753-54 (2d Cir. 1996) (failure to conduct trademark search prior to adoption of mark can be demonstrative of bad faith).

Taken as a whole, the factors on which there is evidence weigh strongly in favor of a finding of likelihood of confusion. The Applications should therefore be refused.

CONCLUSION

For the foregoing reasons, based on the undisputed facts, there is a likelihood of confusion between the senior user and the proposed registrant, such that it is appropriate to enter summary judgment on behalf of Opposer herein, and deny the applications of Applicant GIH.

Dated: June 18, 2014
New York, New York


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Green Ivy Educational Consulting, LLC,	:
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Opposer,	:
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v.	:
	:
Green Ivy Holdings LLC,	:
	:
Applicant.	:

Opposition No. 91211873

Serial Nos.: 85775379, 85775380 and 85775382

Marks: GREEN IVY, GREEN IVY SCHOOLS and GREEN IVY LEARNING

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ANAHITA HOMAYOUN, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like may jeopardize the validity of this document, declares that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true:

- 1

4. I have written for the New York Times Motherlode Blog, New York Post, the Huffington Post, Psychology Today.com, San Francisco Chronicle, San Jose Mercury News, among others, on parenting, education, and school-related topics.

5. As set forth in greater detail below, GIEC's use of the mark GREEN IVY commenced in March 2004, over eight years before the filing of the intent to use applications by Green Ivy Holdings LLC ("GIH" or "Applicant") that are the subject of this opposition. Furthermore, GIEC's use of the GREEN IVY mark has been continuous and has expanded into new products and services beyond those first offered in 2004.

6. The GREEN IVY mark has become well known and has built up good will of significant value. It signifies goods and services originating with GIEC as its owner.

7. Since GIEC is the senior user of the mark GREEN IVY, it will be harmed by the grant of registrations opposed here since there is a likelihood of confusion between the mark GREEN IVY (the "Mark") and the marks GIH now seeks to register, namely GREEN IVY (Serial No. 85775379), GREEN IVY SCHOOLS (Serial No. 85775380), and GREEN IVY LEARNING (Serial No. 85775382) (collectively, the "Marks Under Application").

History of GIEC's Launch and Initial Use of the GREEN IVY Mark

8. In late 2003, I was providing after-school tutoring and learning support services to middle school and high school students in the San Francisco Bay area. By March 2004, I had adopted the service marks GREEN IVY and GREEN IVY EDUCATIONAL CONSULTING (collectively the "Mark") to designate the source of my educational and consulting services. GIEC also uses GREEN IVY EDUCATIONAL CONSULTING as its trade name. In general, however, GIEC uses GREEN IVY to signify that a product or service originates with GIEC – GREEN IVY is GIEC's brand, which appears on, for example, GIEC's

website, written products, presentation materials, and advertisements as discussed below and demonstrated on the annexed examples.

9. Since its inception, GIEC has worked with elementary and secondary school students during school hours and after school to provide tutoring and learning support services and programs focused on helping students improve their academic performance by teaching organization skills and time-management skills. GIEC also provides programs geared toward improving students' overall wellness. GIEC has also helped students improve their understanding of individual academic subject matters, including but not limited to English, Writing, History, Elementary Mathematics, Science, Biology, Chemistry, Physics, Calculus, and Spanish, all via direct instruction as well as online and digital tools as appropriate.

Current Use of the Mark by GIEC

10. Over the past ten years, GIEC has greatly expanded its reach and the services it provides to students around the country and around the world.

11. GIEC continues to provide educational services and after school enrichment tutoring and programs for students in grades 5-12. GIEC also provides general academic consulting as well as college admissions application consulting for students in grades 9-12. In addition, GIEC provides analysis and evaluation of testing results when students undergo testing to diagnose learning disabilities. GIEC works with students in its San Francisco Bay area office and remotely via Skype, including students in London, Dubai, and Seattle, among others.

12. GIEC provides workshops, seminars, and presentations to parents of K-12 students on topics related to education, parenting, and child and adolescent development throughout the United States, most notably New York City and Los Angeles. **Examples of materials created by GIEC for use in connection with these events are attached as Exhibit**

A. GIEC currently works primarily with students in grades 5-12, though the audience for GIEC's work includes parents whose children are in grades K-12, since the topics of workshops, presentations and seminars include topics of interest to parents of K-12 students, including promoting academic success, managing stress and anxiety, understanding technology in the classroom, and building student self-confidence, resilience, and self-esteem.

13. GIEC also develops written materials and products related to K-12 education and child and adolescent development using the Mark. **An example of these materials is attached as Exhibit B.**

14. GIEC works directly with schools as a consultant to develop solutions around promoting academic success. Since 2010, GIEC has presented to and consulted with educators, faculty, and administrators at schools around the country and around the world on a variety of education and parenting topics. **Attached as Exhibit C is a printout from the Events page of GIEC's website, which provides examples of such recent presentations.** GIEC works directly with schools and gives faculty in-service presentations. GIEC has developed curricula and consulted with schools on curriculum development, particularly on topics related to school achievement, success, technology in the classroom, and positive pro-social academic outcomes. The curricula created include, but are not limited to, topics of organization, time-management, overall wellness, managing homework and extracurricular activities, setting goals, improving academic and social outcomes, and building positive and inclusive school communities.

15. Over the past few years, I have presented GIEC's work at conferences throughout the United States. The GREEN IVY mark appears in presentations and on handouts given to participants. **Examples from materials created in connection with such**

presentations are attached as Exhibit D. When I present at conferences, I am clearly identified as the founder of GIEC and reference GIEC and its work in any presentation.

16. In addition to media coverage through national and local channels (discussed below at paragraphs 27-28 and 33-35), GIEC maintains a national presence through its weekly e-newsletters and regular posts on social media sites including Facebook and Twitter.

17. On or about July 7, 2009, GIEC began publishing an e-newsletter under the mark GREEN IVY to provide a resource to parents, educators, and administrators and to market GIEC's services. The newsletters were initially sent on a monthly basis, then increased in frequency to bi-weekly and then to weekly. The e-newsletters provide advice and reference current articles and publications related to education, schools, and professional development. The e-newsletters also provide analysis and evaluation of the goods and services of others, namely software, books, and classroom materials in the fields of education and parenting. **Examples of these e-newsletters are attached as Exhibit E.** GIEC's newsletter is emailed to a list of approximately 1,100 people who have subscribed to GIEC's newsletter list, and is also accessible to the public through online social networks including Facebook and Twitter. GIEC also provides reference to and evaluation of the goods and services of others through its website at www.greenivyed.com/blog. **Examples of these posts are attached as Exhibit F.**

18. GIEC opened its account on Facebook on July 12, 2009, and first tweeted via Twitter on November 28, 2012.

19. I appear publicly on a regular basis on behalf of GIEC. At these appearances, I discuss my work at GIEC and the strategies honed and implemented at GIEC, including those strategies highlighted in my written work (including my books). Over the course of my work with GIEC, my personal reputation as an expert in the field of educational services has been

firmly established, as has the reputation of GIEC as a reputable provider of those services. Indeed, as the founder of GIEC, my personal reputation reflects directly on the reputation of GIEC and vice versa. In this proceeding, Applicant may attempt to distinguish my work as an individual from that of GIEC, but the reality is that my personal appearances and writing are based on my work at GIEC and GIEC receives requests for services based on my appearances and writing, whether I mention GIEC explicitly in those instances or not. **I have attached several examples of these requests as Exhibit G.** Regardless, I generally reference the Mark, and certainly discuss the goods and services GIEC provides under the Mark, in my personal appearances and/or written work. When I am presented at speaking engagements or write an article, my biography generally indicates that I am the founder of GIEC, thus further publicizing the Mark.

20. GIEC regularly receives inquiries through the Green Ivy website and via email from all over the United States, including but not limited to New York, California, Connecticut, New Hampshire, Massachusetts, Florida, North Carolina, Georgia, South Carolina, Illinois, Texas, Wisconsin, Virginia, Vermont, Washington D.C., and Tennessee, as well as abroad, and GIEC is noted as a resource for parents for educational guidance and support on child and adolescent development issues surrounding educational services, parenting, academic success, and overall child wellness. **Several additional examples of these inquiries are attached as Exhibit H.**

21. In addition, individual students located outside of California travel to GIEC's Los Altos, CA office to attend seminars. **Examples of out of state registrations are attached as Exhibit I.**

Proposed Expansion in Uses of the Mark by GIEC

22. GIEC has extensive plans to continue using the Mark in the areas of workshops, seminars, and educational services for parents, students, and educators inside and outside the school setting. For example, GIEC plans to develop online products and services accessible to students and parents around the world for assistance with organization, time-management, academic success and classroom technology management. GIEC also plans to continue its direct service work with students, parents, educators, and schools, as well as developing online resources. GIEC plans to open several other offices, and to continue work in the New York City area and throughout the United States and abroad. GIEC plans to continue and expand its consulting services in schools and with schools, and to continue to develop its curriculum development business, particularly with schools providing one-to-one iPad or computer devices for students to use in the classroom to complete work, as GIEC has been on the cutting-edge of creating curriculum and developing appropriate recommendations for schools with 1-to-1 programs in place. GIEC is continuing to develop products and services related to K-12 education and child and adolescent development, and continuing to enhance its role as a resource for parents, educators, and students. In addition, GIEC will expand its work with schools without personal technology programs in place and evaluate student development and educational programming related to organization, time-management, academic performance, and personal wellness in the classroom and school community. GIEC also plans to expand its programs designed to provide parents and educators with a reliable resource for the evaluation of goods and services offered in the field of education. GIEC is now well-positioned to pursue this effort based on the services provided over the last ten years building the GREEN IVY brand to be recognizable to parents and educators interested in academic success, school development,

and personal wellness. GIEC is confident its business will continue to grow and thrive in these areas over the coming years. Thus GIEC would be harmed by the grant of registration to the Marks Under Application.

Channels of Trade in Which the Mark is Used and Advertised by GIEC

23. As described above, the GREEN IVY mark is used in connection with services offered in person at GIEC's offices, online via Skype, through its website, and at workshops and seminars given at schools and conferences. The GREEN IVY mark is used on handouts, worksheets, online materials, and presentations that are presented to parents of K-12 students, educators, school administrators, and students in grades 5-12. The GREEN IVY mark is also used in connection with services offered through GIEC's e-newsletters, emails, online social media, and in other related channels to discuss education and parenting issues.

24. The GIEC website, www.greenivyed.com, uses the GREEN IVY mark and provides resources, highlights GIEC's services, and includes a blog which references current information of interest in the field of education and evaluates third-party products and services. The GIEC website first went live in or about June 2006, and has been significantly updated several times since then. GIEC frequently receives requests for its services through the "Contact Us" page on its website.

25. As also set forth above, the GREEN IVY mark was first used in connection with educational and consulting services provided by me in a number of geographic locations, including but not limited to: New York, New Jersey, California, Florida, Maryland, North Carolina, Wisconsin, Washington D.C., Portugal, France, the United Kingdom, and the United Arab Emirates. These services have been publicized through a variety of in-person events and

print and online media, including in the national media, as set out in paragraphs 15, 19, 27-28, and 33-35, and through online social media with expansive national and international reach.

Audience for GIEC's Products and Services

26. The audience for GIEC's products and services includes, but is not limited to: parents of K-12 students, educators, school administrators, and K-12 students. More specifically, GIEC's after school academic coaching, academic enrichment, educational services, and tutoring services have an audience that includes students in grades 5-12 throughout the United States and abroad. GIEC's college admissions application consulting services are intended for secondary school students and their parents. GIEC's live and online educational services, namely classes, workshops, and seminars in the field of primary and secondary education, are intended for students in grades K-12 and their parents. The audience for these services also includes educators, faculty, and school administrators (depending on the workshop, seminar, or presentation given). The geographic reach for those talks includes the entire United States and abroad, as GIEC travels to schools throughout the United States and abroad and presents at schools and independently. GIEC's curriculum development services are marketed to and intended for school systems, specifically school administrators, educators, parents, and students in grades 5-12. The geographic reach for these services is schools throughout the United States and abroad. GIEC's publications, including its blog, e-newsletter and other online communication, have an audience of parents of K-12 students, school administrators, and educators, and have a worldwide geographic reach.

GIEC Press Coverage and Book Publishing

27. GIEC has received significant regional and national press coverage throughout the United States over the past ten years. The New York Times first mentioned GIEC on June 11, 2006, in the front-page article “For Some, Online Persona Undermines a Resume.” **This article is attached here as Exhibit J.** On January 1, 2008, the New York Times published an article entitled “Giving Disorganized Boys the Tools for Success,” which appeared on the front page of the National section, discussing GIEC and its work. **This article is attached here as Exhibit K.** After the 2008 New York Times article’s publication, GIEC received requests and inquiries from around the country via the GIEC website and GIEC’s general inquiry email address: info@greenivvyed.com.

28. I wrote an article for the New York Times’ “Motherlode” blog on May 8, 2014 titled “A Mother’s Instinct, a Daughter’s Need,” which identified me as the founder of GIEC. On the same day, one of my books based on my work at GIEC was recommended in another New York Times piece titled “Where to Turn When the School Wants to Have Your Child ‘Tested.’” **These articles are attached here as Exhibit L.**

29. In part due to the success of GIEC and the renown of the GREEN IVY mark, in or about September 2008, I was contracted to write a book, *That Crumpled Paper Was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*, which was published by Perigee, a division of Penguin Books, on or about January 5, 2010.

30. On December 31, 2012, my second book, entitled *The Myth of the Perfect Girl: Helping Our Daughters Find Authentic Success and Happiness in School and Life* was published by Perigee. On or about June 3, 2014, *The Myth of the Perfect Girl* was named A Mighty Girl Pick of the Day on the Facebook page of A Mighty Girl (website domain:

www.iamightygirl.com). A Mighty Girl has over 450,000 Facebook followers, and over 2,800 individuals “Liked” the post mentioning *The Myth of the Perfect Girl*. The post itself was shared on over 1,200 different occasions.

31. Both books are based on my work with parents, educators, and students through GIEC and repeatedly reference those services. In addition, the Mark is included on each of the biography pages of the books.

32. These two books received significant critical acclaim, including recommendations by many prominent individuals in the education world. GIEC frequently receives requests for services based on the potential client having read one of my books. See, e.g., Exhibits G, H.

33. GIEC’s work, including my written work based on GIEC’s services, has also been highlighted or mentioned by the Associated Press, Chicago Tribune, Huffington Post, PsychologyToday.com, Gentry Magazine, Duke Magazine, San Jose Mercury News, and Education.com, among many others. GIEC has also been featured on countless blogs that link to these articles or feature GIEC’s cutting-edge educational services on academic development and success. **Examples of these articles are annexed hereto as Exhibit M.**

34. In addition to online and print publications, I have been interviewed on a number of radio stations, including National Public Radio (“NPR”) and regional NPR affiliates, about GIEC’s work and the educational topics highlighted in both *That Crumpled Paper Was Due Last Week* and *The Myth of the Perfect Girl*. The radio interviews include time on Positive Parenting Radio with Armin Brott, KERA FM (North Texas), WAMC Northeast Public Radio, NPR’s Tell Me More, Wisconsin Public Radio, BYU Radio – The Matt Townsend Show,

Southern California Public Radio, and WBos (Boston), among others. During each of these appearances, I have discussed the work of GIEC offered under the Mark.

35. GIEC's work and my written work based on GIEC's services have also been featured on television. I have been interviewed on NY 1, ABC News Now, View From the Bay, and ABC 7 News. In each instance, education and parenting tips from GIEC's work were highlighted, sometimes in combination with one of the aforementioned books.

36. The critical acclaim surrounding both books has significantly contributed to the continued success and enhancement of the GREEN IVY mark. Parents and schools regularly contact GIEC after reading one or both of the books, or seeing a reference to the books online or via traditional media sources.

GIH's Applications and Proposed Use by GIH

37. On or about November 9, 2012, GIH filed an intent to use application to register the mark GREEN IVY in connection with (1) "Office administration services for schools," (2) "Educational services, namely, providing pre-kindergarten through 12th grade classroom instruction; educational services, namely developing curriculum for others; providing after school educational programs for children in pre-kindergarten through 12th grade; providing live and online educational services, namely, providing classes, workshops and seminars in the field of primary education for grades pre-kindergarten through 12th grade" and (3) "Testing, analysis and evaluation of the goods and services of others for the purpose of certification, namely, software, toys, books, classroom materials and lesson plans in the fields of education and parenting."

38. On the same date, GIH also filed an intent to use application to register the mark GREEN IVY LEARNING in connection with the same services listed in the preceding paragraph with respect to the application for registration of the GREEN IVY mark.

39. On the same date, GIH filed an intent to use application to register the mark GREEN IVY SCHOOLS in connection with "Education services, namely, providing pre-kindergarten through 12th grade school instruction, curriculum development, education administration and operation, before and after school educational and enrichment programs, school break programs; live and online education, as well as providing, reviewing and certifying educational and parenting material including software, toys, books, classroom materials and lesson plans."

40. My attorney has also showed me GIH's responses to interrogatories, and I understand that the "services" GIH has indicated it provides or intends to provide include the operation of at least two Montessori schools, including the provision of "classroom instruction for students," "after school educational programs," "classes, workshops and seminars" and "testing, analysis and evaluation." GIH also apparently offers or intends to offer each of the following branded products or services under the Marks Under Application: "a. Websites featuring information on education or educational services; b. Printed or online advice columns or other publications regarding education or educational services; c. Books; d. Audio books; e. Podcasts; f. Blogs; g. Seminars or speaking engagements; h. Printed instructional materials; [and] i. Online instructional materials."

41. In light of the fact that GIEC provides educational services, workshops, seminars, and presentations for parents, students and educators, curriculum development for others, and analysis and evaluation of goods and services created by others, as set out in greater

detail above at paragraphs 9-21, there is either direct competition and overlap between the services offered by GIEC under the GREEN IVY mark and those to be offered by GIH or at least potential competition, which will no doubt lead to consumer confusion.

42. Indeed GIH's founder Jennifer Jones testified that GIH will "develop... curriculum for others" by, for example, working with "an entity that wants to develop a new school and they seek us out for help with developing a curriculum because they like what we're doing in one of our own schools, we would offer that service." Declaration of Jennifer Philbrick McArdle Ex. J (Deposition of Jennifer Jones) at 39:21-40:17 (also describing service as a "consulting" service). Jones further clarified that GIH's statement in the Applications that it will provide "testing, analysis and evaluation of the goods and services of others" incorporates its intention "to become an organization that parents trust when seeking out resources" including by "developing the [Green Ivy] brand so that parents find value in any product or service we recommend." Id. at 46:11-47:18. GIEC already provides curriculum development, consults with others and evaluates and recommends goods and services in the educational field. There is thus direct overlap in the services offered by GIEC and those offered or intended to be offered by GIH.

43. GIH has also confirmed that it does not intend to limit its audience and that its proposed audience is "parents who have children that are school age or are approaching school age." This proposed audience will also clearly overlap with the established and future audience for GIEC's products and services. Indeed, as noted in an article dated December 2013 entitled "Creativity-Focused Private School Plans 2014 Opening," GIH plans to begin accepting sixth graders at its Pine Street School location in fall 2015. **A copy of this article is attached as**

Exhibit N. This audience directly overlaps with the audience of students GIEC serves. See, e.g., paragraph 26.

44. Moreover, GIH stated in a publicly-available online presentation for Green Ivy Schools that it plans to expand its offerings under the Marks Under Application to service other key U.S. cities and abroad. See <http://prezi.com/yesm95bdscpb/green-ivy-schools-v-02/>. This expansion will clearly overlap with the brand development that GIEC has already built over the last ten years in cities across the country and worldwide.

45. GIH has also confirmed that the “Internet and traditional media publications” are its primary trade channels. As discussed above, see paragraphs 23-25, GIEC also distributes content under the Mark through these channels.

Actual Confusion Between GIH and GIEC’s Products and Services Due to GIH’s Use of the Mark

46. On or about March 30, 2012, GIEC’s office manager, Emily Morrow, informed me that she had received a phone call at GIEC’s Los Altos office location. Ms. Morrow (who also goes by her husband’s surname, Dickson) explained that the woman calling believed GIEC to be opening up a school on Wall Street, and inquired about whether her company could work with us as a vendor. Ms. Morrow expressed to me that she was unclear about why the woman would think GIEC was opening up a school on Wall Street.

47. After hearing this report from Ms. Morrow, I did an online search of the terms “Green Ivy” and “Wall Street.” When I did so, an article in the New York Post dated March 27, 2013 entitled “ABCs and Ivy on Wall Street” came up in the search, revealing the intent of GIH to open a school, referred to as “Green Ivy School,” on Wall Street. **The New York Post article is attached here as Exhibit O.** GIEC was justifiably concerned, as the school

has yet to open and we were already receiving inquiries that were clearly examples of consumer confusion.

48. Several times during the summer of 2013, the GIEC office in Los Altos, CA received mail addressed to Jennifer Jones, as CEO of either GIEC or "Green Ivy Schools." Upon further research, we realized that Jennifer Jones is currently the founder and managing member of GIH. **A copy of one such mailing is attached here as Exhibit P.**

49. On the afternoon of September 17, 2013, I received an email forwarded from Jennifer Jones. In that email, Ms. Jones forwarded me an email she had received at the GIH inquiry email address (info@greenivy.com) from a potential customer, who was interested in GIEC's services. It was clear from the information contained in the email that the email was intended for GIEC, indeed Jennifer Jones stated expressly that she believed "the note below was meant for you." **A copy of this email is attached here as Exhibit Q.**

50. GIEC's main inquiry email address is info@greenivyed.com, just two letters off from the inquiry email address used by GIH. The similarity of email addresses, combined with the similarity in the GREEN IVY mark and the goods and services offered by GIEC and GIH, adds to the likelihood that there will continue to be confusion. Any such confusion will be detrimental to GIEC's continued development of the GREEN IVY mark.

51. On February 14, 2014, I gave a presentation on The Culture of Perfectionism at the Learning and the Brain Conference in San Francisco. The Learning and the Brain Conference is a conference for educators, school administrators, school psychologists, psychiatrists, and adolescent development experts throughout the world, and several thousand people were in attendance for the conference.

52. After my seminar and presentation, I was interviewed by Nicholas Gillon, the Education Director at an independent school in Washington State. Over the course of our conversation he inquired as to whether I was affiliated with Green Ivy Schools in New York, explaining that he had assumed we were affiliated given the similarity between the entity names and the educational services provided. I informed him that we are not affiliated.

Damage to GIEC

53. GIEC has spent over 10 years building the GREEN IVY mark in connection with after school educational programs, classes, workshops and seminars, curriculum development for others, analysis of goods and services, and analysis of testing.

54. Development has begun on other educational products and services, such as new curriculum development products for others and additional testing, evaluation, and analysis of goods and services made by others. These products and services are the natural extension of the scope and reach of GIEC's current use of the Mark to other audiences.

55. If applicant GIH is permitted to register the Marks Under Application, GIEC will be harmed, since GIH will be deemed to have exclusive nationwide rights to the Marks Under Application.

Dated: New York, New York

June 18, 2014

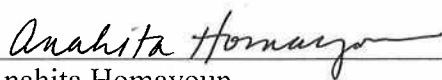

Anahita Homayoun

EXHIBIT A

THE CULTURE OF PERFECTIONISM:

Understanding the Intersection of School, Social Media, and Stress

The Definition of Perfect: Excellent or complete beyond practical or theoretical improvement, conforming absolutely to the description or definition of an ideal type.

The Problem:

- The pursuit of perfection is difficult because it is an unobtainable standard.
- It is actually the most limiting thing we can do because it creates an ideal based on externally driven standards - that is, what others tell us is important
- It is neither sustainable nor healthy, and can redirect our energies to activities that are not personally fulfilling or satisfying

The Culture of Perfectionism:

- The perfectionist culture blocks our next generation of girls from reaching their full potential as contributors
- TCP creates standards of expectation based on external messages rather than our own internal motivation, drive, and personal values
- We lose the opportunity to be creative because we set the bar based on externally rewarded accomplishments and accolades, rather than internally defined values
- Perfectionism is an often unobtainable mythical illusion because it is ever changing

How We Got Here:

- **Academic Expectations:** fear based learning, motivated by grades, scores an indicator of success
- **Technology:** social media, over stimulating students and bombarding them with images, conversations, perceptions of external standards
- **Getting Older Younger:** hitting puberty younger, dressing older
- **Differing Views of Health:** body image vs. authentic health and wellness
- **Myth:** You can (and should be able to) do it all, all the time

The Side Effects:

- **Procrastination:** Fear and anxiety that nothing will ever be good enough
- **Insecurity:** Constantly compare ourselves to external standards, nothing is good enough
- **Exhaustion:** Trying to put so much effort into so many different things becomes tiring, overwhelming, and unproductive

What We Can Do About It:

- Shift the conversation from achievement to overall wellness ▪
- Focus on personal values and progress rather than perfection
- Entrepreneurial Model of Success

Ana Homayoun www.anahomayoun.com

Green Ivy Educational Consulting ▪ www.greenivyed.com ▪ 650-472-0617

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Finals Study Schedule

Week Before Finals

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Afternoon 3 - 5 pm							
Evening 5 - 7 pm							
Evening 7 - 9 pm							

Finals Week

	Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
Morning 10 - noon							
Afternoon 1 - 3 pm							
Evening 4 - 6 pm							
Evening 7 - 9 pm							

TIPS:

1. Create a study packet for each class using a manila envelope - put any important notes, old tests and quizzes, review sheets and related material into the envelope.
2. Block out time to study and prepare for finals the week before exams. The goal should be that all review sheets and flashcards are completed by the Sunday before exams begin.
3. In each two hour study block of time, choose two subjects - one easier subject, one more challenging subject - to focus on. Alternate between the two subjects as appropriate or necessary.
4. Use time the week of exams to flip through flashcards and actively study material. Remember: the week before finals is actually the time to do the "heavy-lifting!"
5. All the review sheets should be completed by _____.

EXHIBIT B

Playing the Game of School

Green Ivy Educational Consulting

Reflect

What went really well for you in school last year?

What would you like to do differently this year?

Imagine that you were at the end of this school year and it went incredibly well. What would have happened? How would that have felt?

Organize

- Binders – Create a system of organization for your binders with five sections for each subject (or how your teacher asks you)
- Planners – Map out your week (let's create a sample week)
- Weekly Re-Group – Set time aside each week (even 15-20 minutes) to simply get all your papers in order, map out your planner for the week

Prioritize

What are your biggest distractions?

1. _____
2. _____
3. _____
4. _____
5. _____

What does being focused look like?

Where do you do your homework?

When is the most effective time for you to do homework?

Pomodoro Method of doing work WORKS – 25 minutes on, 5 minutes off – use a timer.

Be Proactive

Collaboration – Use Collaboration to your benefit

1. _____
2. _____
3. _____

Connection Challenge:

How do you want to get involved in your school community?

What new activity or sport would you want to try this year?

Activity

The Game of Threes - Make a list of three things you like to do, three things you would like to try, and three things you would like more time to do. Out of the list of nine things, circle three that you would like to try AT LEAST three times over the next three months.

Things I like to do	Things I would like to try	Things I would like more time to do
1.	1.	1.
2.	2.	2.
3.	3.	3.

Studying for Tests

Three main tips:

1. Do the review sheet ahead of time!
2. Make flashcards (they work, they really do!)
3. Go to collaboration, get extra help as needed, and be proactive.
4. **Activity:** Vocabulary Flashcards

Food, Exercise, and Sleep

- **Nutrition:** Think about long-term sustainability rather than short-term quick fixes
- **Healthy Breakfast:** Should include complex carbohydrates and lean protein

What are some healthy breakfast choices that you would like to eat?

1. _____
2. _____
3. _____

- **Exercise:** It is all about increasing movement and decreasing stress – not just about playing sports

What types of exercise do you do that help decrease stress?

- **Sleep:** Best tip to get better grades and improve athletically – SLEEP MORE.

How many hours did you sleep on average last school year?

What prevents you from getting enough sleep?

How much sleep do you think is ideal?

National Sleep Foundation says _____ hours of sleep per night are necessary for healthy brain and body development of teenagers. Sleep helps you process learning (so to get better grades, sleep more!), concentrate better, and recover faster from hard athletic workouts.

- **Stress and “Rough” Days** – We all have days that are tougher than others – how we deal with them is what matters most!

What stresses you out most?

What are healthy ways that you can deal with stress?

1. _____

2. _____

3. _____

Emotional Toolbox Question:

Who are your supporters and to whom can you reach out to for clarity? Friends can be supporters, and can help commiserate and cheer you up, but there are certain people in your life help you gain clarity. Who are they?

My Supporters:

My Clarifiers:

Personal and Academic Goals:

Come up with Three Personal and Three Academic Goals. What will you do to accomplish each one?

Academic Goals

Goal #1:	What I need to do to achieve this goal:
Goal #2:	What I need to do to achieve this goal:
Goal #3:	What I need to do to achieve this goal:

Personal Goals

Goal #1:	What I need to do to achieve this goal:
Goal #2:	What I need to do to achieve this goal:
Goal #3:	What I need to do to achieve this goal:

EXHIBIT C

Stay connected [email address](#)[first name](#)[last name](#)

SIGN ME UP

Join the conversation [!\[\]\(cbe2492b119e39e02a1dab2af4a4b296_img.jpg\)](#) [!\[\]\(2f36c159ea3670f7a62f64a4f1cf5c05_img.jpg\)](#)[ABOUT](#)[BOOKS](#)[WORK WITH ANA](#)[EVENTS](#)[PRESS](#)[BLOG](#)[CONTACT](#)**Building a Blueprint for Success: School, Social Media, and Stress**

Cupertino High School

Cupertino, CA

Wednesday, April 30, 2014 | 7:30-8:30 PM

[DETAILS](#)**Managing the Madness: Understanding the New Social Media**

Athenian High School

Danville, CA

Tuesday, May 20, 2014 | 8 AM

[DETAILS](#)**Overcoming the Perfect Girl Myth: How to Overcome Pressures to Conform and Define Success on Your Own Terms**2014 National Conference for College Student Women Leaders ([NCCSWL](#))

University of Maryland, College Park, MD

Friday, June 6, 2014 | 3:15 PM

[DETAILS](#)**The Culture of Perfectionism: Understanding and Overcoming the Impact of Our High Pressure, High Impact World**

Duke Women's Forum

TIAA-CREF, NYC

Wednesday, June 18, 2014 | 6:30 PM – [Register Here](#)[DETAILS](#)**The Culture of Perfectionism and The Myth of the Perfect Girl**

Harpeth Hall School

Nashville, TN

Tuesday, October 28, 2014 | Time TBA

[DETAILS](#)**Crumpled Paper, Culture of Perfectionism, and Camp**

Joe Kruger Youth Development Conference

Westchester, NY

Thursday, October 30, 2014 | Time TBA

[DETAILS](#)**WHAT OTHERS ARE SAYING**

"Ana is a dynamic, engaging speaker who accurately portrays the challenges teens face in a 24/7 digital world."

MARGARET MILLER

Dean of Students, St. Francis High School,
Mountain View, CA

AS
SEEN
IN

The New York Times

NEW YORK POST

abc NEWS

npr

CENTRY MAGAZINES

Psychology Today

Chicago Tribune

THE
HUFFINGTON
POST

EXHIBIT D

Overcoming the Perfect Girl Myth:

How to Overcome Pressures to Conform and Define Success on Your Own Terms

Ana Homayoun

Twitter: @AnaHomayoun

Author, Founder of Green Ivy Educational Consulting

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BUILDING A NEW BLUEPRINT:

Strategies to Help Students Manage School, Social Media, and Stress

The Problem:

- Students struggle with organization and time management, especially as they juggle social media and school technology

How We Got Here:

- **Academic Expectations:** Numbers-based academic experiences, standardized testing, college admissions/career frenzy
- **Parental Involvement:** Unawareness around technology, parental over- and non-involvement
- **Technology:** Social media, online distractions, ultimate paradox, perceptions of external standards
- **Getting Older Younger:** Beginning puberty at younger ages, dressing and acting older earlier
- **Differing Views of Health:** Body image vs. authentic health and wellness
- **Myth:** You can (and should be able to) do it all, all the time

The Side Effects:

- **Procrastination:** Fear and anxiety that nothing will ever be good enough
- **Insecurity:** Constantly compare themselves to external standards
- **Exhaustion:** Putting so much effort into so many different things becomes tiring, overwhelming, and unproductive

What We Can Do About It:

- Shift the conversation from achievement to overall wellness
 - Focus on nutrition, functional exercise, and sleep
- Emphasize personal values and progress rather than perfection
 - Long-term habits rather than short-term results
 - Where/when is homework being completed
- Unschedule and de-stress
 - Weekly scheduling sheet
 - Pomodoro method
 - Weekly re-group time
- Entrepreneurial Model of Success
- Create a daily oasis
 - Focus energy on things that make life less stressful

Managing the Madness: Understanding the New Age of Social Media

Ana Homayoun, Green Ivy Educational Consulting

May 20, 2014

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EXHIBIT E

[Audience](#)[Campaigns](#)[Response](#)

Emma is experiencing a delay in loading response data. Emails are sending as normal.
Visit [Emma Community](#) for details and updates.

July 2009 College Counseling Newsletter

[Preview](#)

About this mailing

Campaign name July 2009 College Counseling Newsletter
Subject Line July 2009 College Counseling Newsletter

[Your email](#)[HTML](#)[Plaintext](#)[Printer-friendly view](#)

Hello!

Hope you are all having a wonderful, relaxing summer after a grueling junior year! I know for some of you the summer seems even busier than the school year, but please remember to take some time out, relax, and sit in the shade with a good book or something.

Please read this newsletter in its entirety every month, because it will have important information and I will assume you have read it when we meet. Anyways, by now you probably know that your parents have signed you up to work with me on college applications! This process can be fun and exciting, and can be much less stressful than your friends will lead you to believe . . . so use this monthly newsletter to help you stay on top of things. Your parents will also be getting a copy of this newsletter, so don't get annoyed if they ask about which essay writing workshop you are going to sign up for... **however, it is your responsibility to communicate with me regarding appointments, workshops etc.**

As always, please feel free to email me or call me if you have any questions.

Cheers, Ana

Summer Appointments

Just a reminder about the things that I would like you all to be bringing in with you when we meet this month (unless you've already given them to me). You should have with you:

- List of schools you are looking to apply to/are interested in
- Completed resume with SAT scores
- Last semester's grades (you didn't lose the report card that fast, did you?)
- Names of teachers you are going to ask for recommendations
- Completed questionnaires for teachers writing recommendations
- Possible essay topics (see Essay section below)

Here are some dates that I will be in the office for college counseling appts this summer. Email me if you want to make an appt:

Tuesday July 14, 2009

Thursday July 16, 2009

Monday July 20, 2009

Things You CAN Get Done Over the Summer

When we meet, we will discuss and strategize what you can get started on over the summer to make your fall semester even less stressful. Completing the Common Application, working on essays, and organizing all your recommendations are things that I am happy to help you get a head start on beginning this month.

Resume

Most of your high schools have given you a sample template to follow on how to create a resume. If not, I have a template I can email you - just let me know if you need it.

Essays

Ahh . . . the essay. Most students cringe whenever the dreaded college essay comes up. I know that most of you wrote a college essay in you junior year English class, but I am also guessing that less than half of you actually plan on using that essay for your college applications. No worries, you will be completely fine.

I have a book in my office that students really find helpful - [Edward Fiske's Real College Essays That Work](#) - you are always welcome to come into the office and check it out. Or you can order your own copy by clicking on the book's link above. Reading through the actual essays usually gives students a sense of relief - college admissions officers are not looking for a great work of literature. They just want to know about you. Not your friend down the street, your parents, your teacher, your dog (though Mason would be a good essay topic, no?), YOU.

Essay Workshops in August

In July and August, I am going to have three essay workshops- you can sign up for whichever one works for you. Space is limited, so let me know when you can make it as soon as possible. Bring your laptop (if you have one), your ideas, and the essay questions for the schools you are planning on applying to . . . it can be very useful to be cooped up with fellow essay writers for a few hours to get a jump-start on those essays. So, if you are a procrastinator or suffer from an endless case of writer's block . . . join us!

likely to be candid if they are not in front of a group leading a tour. Ask a few college students what they like best, what they like least, and what they would change about their college/university experience.

Lastly, try to eat in the cafeteria! After all, if you will be spending a lot of time there if you end up going to that college.

- One important note: If you are visiting during the summer or when the students are on vacation, realize that the campus will likely be much more quiet and seem "boring" when compared to when classes are in session. If given the choice, visiting when school is in session (and I don't mean summer school!) gives you the best sense of the campus experience.

About Us

Since 2001, Green Ivy Educational Consulting has been helping high school students get organized, manage time effectively, and dramatically improve their SAT scores and GPAs. We have offices located in San Francisco and downtown Los Altos and work with students from public and private high schools throughout the Peninsula.

Contact Us

Comments? Suggestions? To contact us, please e-mail Ana at ana@greenivved.com. To learn more about us, please visit our website at www.greenivveducation.com

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May 2010 - College Counseling

Preview

About this mailing

Campaign name	May 2010 - College Counseling
Subject Line	College Counseling Newsletter - Important!!

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Greetings!

If you are getting this email, its because you are signed up to work with me on the college application process (but you probably already know that :). Your parents will also be getting a copy of this email, so fret not! **Please read this newsletter in its entirety every month, because it will have important information and I will assume you have read it when we meet.**

Hope your first few days of summer are relaxing and wonderful!

Ana

[Contact me to set up a June/July appointment](#)

Most of you have initial lists - or we are waiting for your junior year grades and initial SAT scores to develop an appropriate list. I will be around all of June and most of July to help you finalize your list of schools to apply to...its YOUR responsibility to contact me and set up an appt, I am here to help!

Just a reminder about the things that I would like you all to be bringing in with you when we meet this month (unless you've already given them to me). You should have with you:

- List of schools you are looking to apply to/are interested in
- Completed resume with SAT scores
- This semester's grades (you didn't lose the report card that fast, did you?)
- Names of teachers you are going to ask for recommendations
- Completed questionnaires for teachers writing recommendations
- Possible essay topics (see Essay section below)

[Things You CAN Get Done Over the Summer](#)

When we meet, we will discuss and strategize what you can get started on over the summer to make your fall semester even less stressful. Completing the Common Application, working on essays, and organizing all your recommendations are things that I am happy to help you get a

head start on beginning this month.

Resume

Most of your high schools have given you a sample template to follow on how to create a resume. If not, I have a template I can email you - just let me know if you need it.

Essays

Ahh . . . the essay. Most students cringe whenever the dreaded college essay comes up. I know that most of you wrote a college essay in your junior year English class, but I am also guessing that less than half of you actually plan on using that essay for your college applications. No worries, you will be completely fine.

I have a book in my office that students really find helpful - [Edward Fiske's Real College Essays That Work](#) - you are always welcome to come into the office and check it out. Or you can order your own copy by clicking on the book's link above. Reading through the actual essays usually gives students a sense of relief - college admissions officers are not looking for a great work of literature. They just want to know about you. Not your friend down the street, your parents, your teacher, your dog (though Mason would be a good essay topic, no?), YOU.

How it All Works

Starting in late August, we will meet weekly or bi-weekly depending on needs to go over specific tasks in the college application process (i.e. filling out your applications, turning in stamped envelopes for recommendations, double-checking online status, revising essays, submitting applications). At the end of each appointment, I will give you a list of things to do before the next appointment and will email you and your parents a copy of that list (so that it doesn't get lost or forgotten in cyberspace). I keep the to-do lists very manageable, and students have told me that it really reduces stress to follow them. You are, of course, welcome to call and email with any questions at any time. However, it is **imperative** (SAT word!) that you do everything on the to-do list before our next meeting. That way, you are on track and things don't build up. At the end of each meeting we will come up with the date/time for our next meeting. **This is your college application process - please know that the least-stressed students are those who take ownership of the process.** I am here to help!!

A Word About Facebook and Wherever Else You Find Yourself in Cyberspace

Here's the deal with wherever you find yourself in cyberspace: always assume that everyone (your parents, grandparents, college admissions officers, future employers etc) can see whatever you post or have tagged to your account. Even though there are privacy settings, there are *always* ways around them - and believe me, once it's out on the Internet, anyone can find it. Here's a link to a [New York Times article](#) that students find helpful (and not just because I am quoted :)).

Tip: Check the captions of pictures that people have tagged to your account - sometimes people write really inappropriate things that would embarrass you, but you probably haven't read them. Also, Google your name just to make sure nothing pops up that you wouldn't want the entire world seeing.

TIP - Visiting Colleges

Many of you have already visited colleges. For those of you who are still visiting schools, take a look around when you visit - could you see yourself there? A few things to think about:

- Ask how many kids live on campus, and whether or not people move off campus after freshman or sophomore year? If so, where do they live? Ask how easy it is to stay on campus junior or senior year if you so choose. Believe me, living conditions can be one of the most important indicators of college happiness.
- Ask what students do on weekends - do they stay on campus or go off campus?
- Try and visit a class if you can - ask what the biggest class size is and how big introductory classes are (most freshman will be taking intro classes)
- Try and ask questions one-on-one with college students - they are much more likely to be candid if they are not in front of a group leading a tour. Ask a few college students what

they like best, what they like least, and what they would change about their college/university experience.

Lastly, try to eat in the cafeteria! After all, if you will be spending a lot of time there if you end up going to that college.

- One important note: If you are visiting during the summer or when the students are on vacation, realize that the campus will likely be much more quiet and seem "boring" when compared to when classes are in session. If given the choice, visiting when school is in session (and I don't mean summer school!) gives you the best sense of the campus experience.

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- SAT Prep Workshop Starting in January
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Greetings!

How time flies! Today marks the 12th anniversary of what is now Green Ivy Educational Consulting! I started this journey on a whim, and am so incredibly grateful for all the amazing happenings that have come and continue to come into my life. Feeling blessed doesn't even start to describe my happiness.

Yesterday, I watched a fabulous documentary, [Mad Hot Ballroom](#), about a ballroom dance program in public middle schools in NYC. The film was fun, wonderful, inspiring, and warm - and I highly recommend it. I firmly believe all middle school students should be required to take ballroom dancing lessons as an antidote to technology-centric communication.

We've been getting requests for our work from around the country, and we are so grateful for the opportunity to work with your children.

Warm wishes,
Ana & the Green Ivy Staff

[Scheduling Extra Appointments for Finals](#)

Fall semester is winding down and finals are coming. We will also be open for tutoring on Saturday, December 14th from 11 AM to 5 PM to help accommodate the additional requests. To schedule an extra session or two for your student, please [let us know](#).

[Green Ivy Holiday Open House - 5:30 pm December 1st, 2013](#)

It's almost the holiday season, and this means our wonderful town of Los Altos will be hosting its annual [Festival of Lights Parade](#). This tradition features floats, costumed characters, and general holiday cheer, and this year it will be held on *Sunday, December 1st at 6:00 PM*. And as , our Green Ivy office is right in the middle of all the action, including prime viewing spots from our windows, we will be hosting our annual Open House! Feel free to stop by and say hello, hang out with the staff, grab some snacks and apple cider, and watch the parade from our (warm!) office. Our doors will open at 5:30 PM. Holiday outfits encouraged.

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- Interesting Article: They Loved Your G.P.A. Then They Saw Your Tweets - [read here](#)

- Interesting Article: Study Aims to Better Understand Concussions in High School, College Athletes - [read here](#)

Green Ivy Winter Break

Our Green Ivy office will suspend weekly tutoring from Sunday, December 22nd until January 5th. Sessions will resume on Monday, January 6th.

Ana's Speaking at Crystal Springs on December 4th!

Ana will be giving a parent presentation at Crystal Springs Uplands School in Hillsborough on Wednesday, December 4th at 7:30 PM. For more information, please [contact us here](#).

SAT Prep Workshop Starting in January

Spring semester is a great time to start preparing for the SAT! Our intensive 8-week workshop will be held every Saturday from 10 AM to 1 PM, beginning on January 11th. There will be two full-length proctored practice exams on February 1st and February 22nd from 9 AM to 1 PM. The cost of the workshop is \$695, and space is limited to eight students, so [sign up here](#) today!

Organizational Workshops at Green Ivy in January

We will be hosting our popular *Motivational Organization & Time Management* workshop for both middle and high school students on January 11th. We limit our workshops to 8 students, and the workshop can also be done one-on-one for maximum support. The cost for the group workshop is \$110, and a private session is \$250. [Contact us](#) for more information or to sign up!

Middle School Workshop: January 11th, 1:30 - 3:30 PM

High School Workshop: January 11th, 4:00 - 6:00 PM

Organizational Workshops Coming to New York City in January

Ana will be returning to New York in January to host her *Less Stress, More Success: Managing School, Stress and Social Media* workshop. The two-hour session is filled with simple, practical and implementable tips to help students (and parents!) feel confident, purposeful and organized. The cost for the student workshop is \$200, and the parent workshop is \$225. To sign up, [email us here](#).

Student Workshop: January 15th, 4:00 - 6:00 PM

Student Workshop: January 16th, 4:00 - 6:00 PM

Parent Workshop: January 15th, 12:00 - 2:00 PM

Parent Workshop: January 16th, 7:00 - 9:00 PM

Interesting Article: They Loved Your G.P.A. Then They Saw Your Tweets - [read here](#)

You have the GPA, the recommendations, and the SAT scores. You're

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practically a shoo-in, until the college admissions officer see an offensive Facebook post. Could you be decreasing your own chances of getting into your dream school? According to a Kaplan questionnaire, more admissions officers are looking at an applicant's social media profile to determine if the student would be a good fit for their school community.

"As certain high school seniors work meticulously this month to finish their early applications to colleges, some may not realize that comments they casually make online could negatively affect their prospects. In fact, new [research from Kaplan Test Prep](#), the service owned by the Washington Post Company, suggests that online scrutiny of college hopefuls is growing." [Read more here](#)

Interesting Article: Study Aims to Better Understand Concussions in High School, College Athletes - [read here](#)

Playing sports is a great way to build teamwork and self-discipline. Unfortunately it can also be dangerous, and we've heard about one too many students who died after a blow to the head during a football game. Researchers at the University of Virginia are trying to find out more about the causes and effects of sports concussions.

"During each practice and game during the season, the participating student-athletes wear a new adhesive patch with a sensor behind their ear made by X2 Biosystems that captures impacts to the head. The patch enables researchers to study forces on the head in sports, such as soccer, where helmets are not worn." [Read more here](#)

About Us

Since 2001, Green Ivy has been helping thousands of students throughout the United States and abroad fulfill their greatest academic and personal dreams and desires. To learn more, visit us at www.greenivyed.com.

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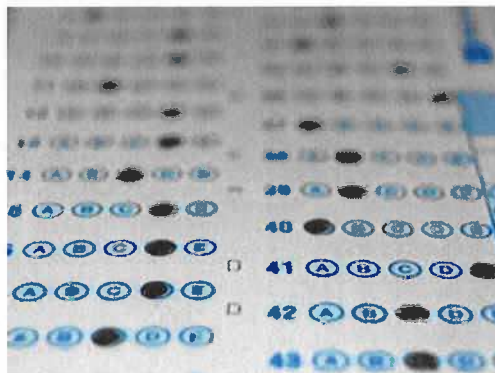


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Interesting Article: This is not your Father's STEM Job - [Read Here](#)

Interesting Article: Why Students Using Laptops in Class Learn Less (even when they are taking notes) [Read Here](#)

Greetings!

Last week, I received the kindest testimonial from the father of a young man whose son worked with us on the ACTs – **and improved his scores from a 19 to a 31 (you read that right!!):**

I wanted to let you know that Mignote did a great job getting [our son] ready to take the ACT. He scored a 31 composite (97th percentile), 34 on reading, 31 math, 28 on science. This was a great improvement over his SAT of 1700 and his previous practice attempts on the ACT (19 was his highest ACT practice test score).

This has opened up an entire new range of college possibilities for him. He was beaming when he told me his score!

Again, please express my thanks to Mignote and thank you, Ana, for creating great learning environment that cares about kids.

~ Parent of a Mountain View HS Junior, April 29, 2014

We are so grateful to do the work that we do, and thanks to all of you. And YES, WE'RE HERE ALL SUMMER!

Warm wishes,

Ana + Green Ivy family

Clearing the Clutter with New Minimalism - [Read Here](#)

Have you ever wanted to re-organize, refresh, and go through tons of stuff

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is with Cary Fortin and Kyle Quilici of [New Minimalism](#), this amazing Bay Area service that comes in, helps you de-clutter, and redesigns your rooms with what you have left over. These young women will change your life! They would also be great to work with a teen who wants to transition his/her room into a more mature place or parents looking to downsize.

Extra Appointments for Finals and Standardized Tests in June

Because finals are so early for several of our schools this year, we have extremely limited extra appointments before exams. If you are interested in booking a few extra appointments, please send the number of extra slots and available dates/times to [Sophia](#) or call our office.

In addition, the June SATs, Subject Tests, and ACTs are coming up shortly. Feel free to [contact us](#) for extra appointments.

Note: Extra finals slots are filled on a first-come, first-served basis, and our weekly tutoring students have first priority.

Tutoring and Preparation this Summer We're here all summer offering one-on-one tutoring, SAT/ACT prep, and group classes. For information on one-on-one work, contact [Sophia here](#). To sign up for workshops, [click here](#).

Summer Writing Program

Often, with all the excitement of family trips and overnight camps, summer reading gets left to the last minute. Sound familiar? Has your son or daughter ever spent the final days of summer frantically trying to finish all 600 pages of *East of Eden*? In an effort to avoid that stressful situation, we offer personalized, one-on-one summer reading tutoring via SKYPE or in-person. In a series of five to ten sessions, we will help your student manage his or her summer calendar by developing a realistic reading schedule during an initial session at the beginning of summer. In the following sessions, your student will hone his or her close reading skills by learning how to write an in-depth passage-analysis, as well as develop a better understanding of writing an entire essay from beginning to end. By the completion of the sessions, he or she will have produced a final draft of an analytical essay.

Sign up by May 15th to receive a 10% discount on summer sessions. To sign up or learn more, [please contact Sophia](#).

Book Recommendation: Popular: [Vintage Wisdom for the Modern Geek](#)

"For the first time in life, I feel happy and safe at school." Maya Van Vagenen, who is now fifteen years old, writes a thoughtful book on her (positive!) experience after reading a vintage book on how to popular and following the book's advice. She took advice from "Betty Cornell's Teenage

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popularity is somewhat of one's own making – the better she feels about herself, the better friend she is able to be to others (and the more people want to be around her. Chicago Tribune writer Heidi Stevens [writes a great review here](#).

Interesting Article: This is not your Father's STEM Job – [Read Here](#)

Jessica Lahey wrote this great piece in last month's Atlantic on the new opportunities for young women pursuing careers in STEM (Science, Technology, Engineering and Math) in a creative way.

Interesting Article: Why Students Using Laptops in Class Learn Less (even when they are taking notes) [Read Here](#) This recent article in the Washington Post highlights a recent study that suggests that even when students are actively paying attention and typing notes in class (and avoid social media distractions) they still don't learn as much as if they chose to write the notes longhand. Through my work, I see how anecdotally many individuals find writing things down helps with their retention – and the same is true of students in the classroom.

About Us

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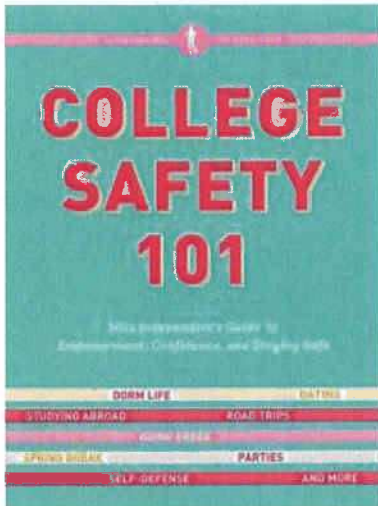
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« [Summer Favorite: Lifeactory Water Bottles](#)
[We're Coming to NYC in September!](#) »

[For some graduating HS Seniors, COLLEGE is just a few months away...](#)



This past May, several families who have worked with us for 6+ years have their youngest child heading off to college – so amazing how time flies! Just the other day, the NYTimes Blog on College Admissions and Aid posted [this great guest post](#) on things kids should do this summer when preparing to go off to college.

There are an increasing number of kids whose parents have done more and more for them (out of love, no doubt, and possibly a bit of fear). Unfortunately, however, sometimes when the kids are set to go off to college, they may be less ready than they might need to be. This final summer is a great time to start to make the transition into what I like to call semi-dependent independence.

TIP: A great new book just came out this spring – [Chronicle Book's Campus Safety 101](#) is a helpful guide and resource to those heading off to college, and covers a lot of things that even parents and other adults might not think of in today's world.

Also, in our office, we teach a one-on-one seminar on organizational and time-management tips and strategies for kids going away to college. Many of our students schedule to come in after they have visited their campus for the summer orientation, and we come up with strategies for success in balancing school, activities, new friends and domesticity (ie. vacuuming your room before Parent's Weekend). To schedule a one-on-one workshop, feel free to call or email our office.

Tags: [Chronicle Books](#), [College Safety](#), [NYTimes blog](#)

This entry was posted on Wednesday, June 29th, 2011 at 8:31 am and is filed under [College Corner](#), [College Counseling](#), [Uncategorized](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

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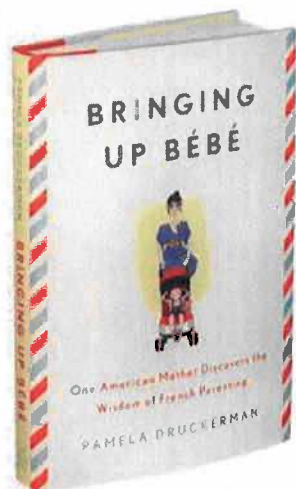
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Resources

« [Green Ivy Summer 2012 Workshop Schedule Has Arrived!](#)

[College Admissions Article: College Says it Exaggerated SAT Scores for Ratings](#) »

[Interesting Article: Are French Parents Superior?](#)



In [this interesting article](#) in The Wall Street Journal, Pamela Druckerman, the author of the new book [“Bringing Up Bebe”](#) discusses her thoughts on why French children are better behaved than American children. Her book reminds me of a reactionary tale to the [“Tiger Mom” approach](#) that was last year’s Wall St. Journal uproar. In her experience living in France with her young children, she noticed that French parents have a different approach compared to American parents when it comes to things like discipline, teaching children patience, delayed gratification, and setting boundaries. According to Druckerman, their approach seems to be working and Americans should take note.

“They are zealous about talking to their kids, showing them nature and reading them lots of books. They take them to tennis lessons, painting classes and interactive science museums. Yet the French have managed to be involved with their families without becoming obsessive. They assume that even good parents aren’t at the constant service of their children, and that there is no need to feel guilty about this...”

What do you think? Can American parents learn something about raising children from their French counterparts?

This entry was posted on Thursday, February 9th, 2012 at 9:09 am and is filed under [Education Articles](#). You can follow any responses to this entry through the [RSS 2.0](#) feed. You can [leave a response](#), or [trackback](#) from your own site.

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EXHIBIT G

Subject: New Contact Request from Website

From: info@greenivyed.com (info@greenivyed.com)

To: Info@greenivyed.com;

Date: Tuesday, October 26, 2010 10:13 PM

Student's Name: REDACTED

Grade: 10th

School: Berkeley High School

Parent's Name: REDACTED

Home Phone: REDACTED

Parent Email: REDACTED

How we can Help?: Dear Ana -- I'm grateful for finally hearing about your book and Green Ivy Ed. My boy is definitely "distracted and disorganized". He's very bright, but is getting C's and D's in high school. He says he hates school. Can you tell me what services you offer and what your rates are? If the answer would be easier to give over the phone, tell me that, and I'll call. Many thanks -- Lauren

Subject: Parent and Teacher Presentations

From: REDACTED

To: ana@greenivvyed.com;

Date: Tuesday, April 19, 2011 9:58 AM

Ms. Homayoun,

I met you at the Ed Rev book signing. Would you please send me information regarding presentations you make for parents and teachers? Please include the cost of the presentations.

I saw organization and time management workshops on your website. Do you ever make student presentations to Middle School Students on organization and time management? If so please include that information.

Thank you,

REDACTED

Ecole Notre Dame des Victoires
659 Pine Street
San Francisco, CA 94108

REDACTED

Subject: American School of Dubai

From: REDACTED

To: info@greenivyed.com;

Date: Monday, May 9, 2011 8:47 AM

Dear Ana Homayoun and Green Ivy Education:

My name is REDACTED and I am a parent of ^{REDACTED} children who attend the American School of Dubai (ASD). I am also a volunteer for the PTA and I am writing you today to inquire about the possibility of a speaking engagement at ASD.

Recently, a friend who is a mother of four and also the PTA President recommended "*That Crumpled Paper was Due Last Week*". I can't tell you how much it resonated with me and my experience of helping my 13 year old transition to middle school. I have since recommended it to several friends, all with similar stories of relief and success.

The American School of Dubai has grown rapidly over the last 5 years and currently has 1,400 students from K1 to 12th grade. We are an independent, not for profit school with a multinational student body. Our PTA is in a position to offer educational enrichment opportunities to our school community and we would like to present speakers that pertain to the needs of our students and parents. Your name was the first that came up during a planning meeting.

We realize that Dubai is a long way from Palo Alto, however, we thought that perhaps you are formulating a speaking itinerary and your travel plans could include a trip to the the Middle East. Or, that you might entertain the idea of an interactive presentation via video.

Thank you in advance for your consideration of our request. You can find out more about ASD on the following website:
www.asdubai.org

I look forward to hearing from you.

Sincerely,

REDACTED

On behalf of the American School of Dubai, PTA

REDACTED

Subject: New Contact Request from Website
From: info@greenivyed.com (info@greenivyed.com)
To: Info@greenivyed.com;
Date: Sunday, July 7, 2013 7:19 PM

Student's Name: REDACTED

Grade: rising 8

School: Brooklyn Friends School

Parent's Name: REDACTED

Home Phone: REDACTED

Parent Email: REDACTED

How we can Help?: loved your book -- do you have coaches in the NYC area? If not, who do you recommend?

Thanks Brooklyn Mom

EXHIBIT H

Subject: New Contact Request from Website
From: info@greenivyed.com (info@greenivyed.com)
To: Info@greenivyed.com;
Date: Friday, June 6, 2014 12:53 PM

Student's Name: REDACTED
Grade: 8th
School: Pine Crest School
Parent's Name: REDACTED
Home Phone: REDACTED
Parent Email: REDACTED
How we can Help?: Hi Ana,

We saw you speak at our school, Pine Crest School in Fort Lauderdale, Florida back in September and we also purchased your book, *That Crumpled Paper Was Due Last Week*. We've implemented some of the techniques in your book with our son, REDACTED, who is 14 and was in 8th grade this year. We are fans of your approach.

We are finding that he knows the material, but performs really poorly on tests. His Algebra teacher told us this morning, I wouldn't even think this test is from the same student who is in my classroom. He is putting in effort but it isn't translating on the tests in this and in his science class. He knew the material but made a 50 on the final exam in algebra as an example.

We are wondering if you have any thoughts, advice, resources that you think could be helpful to us in helping him figure this out. He's a great kid and we really want him to see his effort translating into the end result.

Thanks,
REDACTED

Subject: New Contact Request from Website
From: info@greenivyed.com (info@greenivyed.com)
To: Info@greenivyed.com;
Date: Tuesday, June 4, 2013 12:52 PM

Student's Name: REDACTED

Grade: 9

School: Tesoro HS

Parent's Name: REDACTED

Home Phone:

Parent Email: REDACTED

How we can Help?: I'm reading The Crumpled Paper Was Due Last Week and feel that my 14 year old son about to enter high school could certainly benefit from some organizational coaching.

Unfortunately, we live in Southern California. Do you have a resource in my area? Do you do any coaching online? Great book! Thank you so much!

Subject: 9th grade boy at a Vermont ski academy

From: REDACTED

To: info@greenivied.com;

Date: Wednesday, January 22, 2014 4:04 AM

Hello

My name is REDACTED and I first heard about Ana from some dear friends in Palo Alto the REDACTED Their youngest daughter REDACTED is a senior at Dartmouth college near where we live. My son REDACTED is a 9th grader at green mountain valley school in Vermont. His passion is ski racing and this is a place where he can pursue that sport at the highest level with extremely motivated, like minded kids. He loves the school and so do we. However...

He is struggling academically because he can't manage his time and there is not sufficient structure in place (particularly for boarding students) to help him resist technology and make productive choices in his free time. We all desperately want him to be able to stay there, and the school is committed to helping us figure out a structure and strategies to help.

In situations like this, do you offer consulting with parents, school, students or all of the above? If so we would be very interested in pursuing that as soon as you had time.

Thank you so much!

All my best,

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For Some, Online Persona Undermines a Résumé

By ALAN FINDER

Published: June 11, 2006

When a small consulting company in Chicago was looking to hire a summer intern this month, the company's president went online to check on a promising candidate who had just graduated from the [University of Illinois](#).

Enlarge this Image



Jamie Rector for The New York Times
Tien Nguyen, a college senior, signed up for job interviews but said he was seldom contacted until he withdrew a satirical online essay.

At Facebook, a popular social networking site, the executive found the candidate's Web page with this description of his interests: "smokin' blunts" (cigars hollowed out and stuffed with marijuana), shooting people and obsessive sex, all described in vivid slang.

It did not matter that the student was clearly posturing. He was done.

"A lot of it makes me think, what kind of judgment does this person have?" said the company's president, Brad Karsh. "Why are you allowing this to be viewed publicly, effectively, or semipublicly?"

Many companies that recruit on college campuses have been using search engines like Google and Yahoo to conduct background checks on seniors looking for their

first job. But now, college career counselors and other experts say, some recruiters are looking up applicants on social networking sites like Facebook, MySpace, Xanga and Friendster, where college students often post risqué or teasing photographs and provocative comments about drinking, recreational drug use and sexual exploits in what some mistakenly believe is relative privacy.

When viewed by corporate recruiters or admissions officials at graduate and professional schools, such pages can make students look immature and unprofessional, at best.

"It's a growing phenomenon," said Michael Sciola, director of the career resource center at [Wesleyan University](#) in Middletown, Conn. "There are lots of employers that Google. Now they've taken the next step."

At [New York University](#), recruiters from about 30 companies told career counselors that they were looking at the sites, said Trudy G. Steinfeld, executive director of the center for career development.

"The term they've used over and over is red flags," Ms. Steinfeld said. "Is there something about their lifestyle that we might find questionable or that we might find goes against the core values of our corporation?"

Facebook and MySpace are only two years old but have attracted millions of avid young participants, who mingle online by sharing biographical and other information, often intended to show how funny, cool or outrageous they are.

On MySpace and similar sites, personal pages are generally available to anyone who registers, with few restrictions on who can register. Facebook, though, has separate requirements for different categories of users; college students must have a college e-mail address to register. Personal pages on Facebook are restricted to friends and others on the user's campus, leading many students to assume that they are relatively private.

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But companies can gain access to the information in several ways. Employees who are recent graduates often retain their college e-mail addresses, which enables them to see pages. Sometimes, too, companies ask college students working as interns to perform online background checks, said Patricia Rose, the director of career services at the [University of Pennsylvania](#).

Concerns have already been raised about these and other Internet sites, including their potential misuse by stalkers and students exposing their own misbehavior, for example by posting photographs of hazing by college sports teams. Add to the list of unintended consequences the new hurdles for the job search.

Ana Homayoun runs Green Ivy Educational Consulting, a small firm that tutors and teaches organizational skills to high school students in the San Francisco area. Ms. Homayoun visited [Duke University](#) this spring for an alumni weekend and while there planned to interview a promising job applicant.

Curious about the candidate, Ms. Homayoun went to her page on Facebook. She found explicit photographs and commentary about the student's sexual escapades, drinking and pot smoking, including testimonials from friends. Among the pictures were shots of the young woman passed out after drinking.

"I was just shocked by the amount of stuff that she was willing to publicly display," Ms. Homayoun said. "When I saw that, I thought, 'O.K., so much for that.'"

Ms. Rose said a recruiter had told her he rejected an applicant after searching the name of the student, a chemical engineering major, on Google. Among the things the recruiter found, she said, was this remark: "I like to blow things up."

Occasionally students find evidence online that may explain why a job search is foundering. Tien Nguyen, a senior at the [University of California](#), Los Angeles, signed up for interviews on campus with corporate recruiters, beginning last fall, but he was seldom invited.

A friend suggested in February that Mr. Nguyen research himself on Google. He found a link to a satirical essay, titled "Lying Your Way to the Top," that he had published last summer on a Web site for college students. He asked that the essay be removed. Soon, he began to be invited to job interviews, and he has now received several offers.

"I never really considered that employers would do something like that," he said. "I thought they would just look at your résumé and grades."

Jennifer Floren is chief executive of Experience Inc., which provides online information about jobs and employers to students at 3,800 universities. "This is really the first time that we've seen that stage of life captured in a kind of time capsule and in a public way," Ms. Floren said. "It has its place, but it's moving from a fraternity or sorority living room. It's now in a public arena."

Some companies, including Enterprise Rent-a-Car, Ernst & Young and Osram Sylvania, said they did not use the Internet to check on college job applicants.

"I'd rather not see that part of them," said Maureen Crawford Hentz, manager of talent acquisition at Osram Sylvania. "I don't think it's related to their bona fide occupational qualifications."

More than a half-dozen major corporations, including Morgan Stanley, Dell, Pfizer, L'Oréal and Goldman Sachs, turned down or did not respond to requests for interviews.

But other companies, particularly those involved in the digital world like Microsoft and Métier, a small software company in Washington, D.C., said researching students through social networking sites was now fairly typical. "It's becoming very much a common tool," said Warren Ashton, group marketing manager at Microsoft. "For the first time ever, you suddenly have very public information about almost any candidate."

At Microsoft, Mr. Ashton said, recruiters are given broad latitude over how to work, and there is no formal policy about using the Internet to research applicants. "There are certain recruiters and certain companies that are probably more in tune with the new technologies than others are," he said.

Microsoft and Osram Sylvania have also begun to use networking sites in a different way, participating openly in online communities to get out their company's messages and to identify talented job candidates.

Students may not know when they have been passed up for an interview or a job offer because of something a recruiter saw on the Internet. But more than a dozen college career counselors said recruiters had been telling them since last fall about incidents in which students' online writing or photographs had raised serious questions about their judgment, eliminating them as job candidates.

Some college career executives are skeptical that many employers routinely check applicants online. "My observation is that it's more fiction than fact," said Tom Devlin, director of the career center at the University of California, Berkeley.

At a conference in late May, Mr. Devlin said, he asked 40 employers if they researched students online and every one said no.

Many career counselors have been urging students to review their pages on Facebook and other sites with fresh eyes, removing photographs or text that may be inappropriate to show to their grandmother or potential employers. Counselors are also encouraging students to apply settings on Facebook that can significantly limit access to their pages.

Melanie Deitch, director of marketing at Facebook, said students should take advantage of the site's privacy settings and be smart about what they post. But students may not be following the advice.

"I think students have the view that Facebook is their space and that the adult world doesn't know about it," said Mark W. Smith, assistant vice chancellor and director of the career center at [Washington University](#) in St. Louis. "But the adult world is starting to come in."

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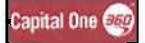
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Giving Disorganized Boys the Tools for Success

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Jim Wilson/The New York Times

Ana Homayoun tutoring Robert Gittings, a sixth grader, above, teaching him how to organize his classwork.

By ALAN FINDER

Published: January 1, 2008

LOS ALTOS, Calif. — “Can we take a look at your backpack?”

[Enlarge This Image](#)

Ana Homayoun repeats that question countless times a day. No, she does not screen airline passengers or work security at a basketball arena.

Ms. Homayoun is a tutor. She helps teenagers with subjects like math and science, but she particularly specializes in teaching boys how to become more organized.

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Jim Wilson/The New York Times

Ms. Homayoun with Chris Picetti, a junior, and her dog, Mason.

One afternoon in her cozy office suite in this affluent suburb south of San Francisco, she asked John Ferrari, 14, to go through a two-inch stack of papers he pulled from his backpack. He sorted through the papers, placing them in

separate piles — writing, spelling, vocabulary, tests — to bring order to his loose-leaf binder.

“Oh, here’s my class schedule, what a relief,” said John, an eighth grader.

A moment later, he stumbled across something even more valuable. “I have to turn this in tomorrow,” John said. “It’s the name I want on my diploma.”

With girls outperforming boys these days in high school and college, educators have been sparring over whether there is a crisis in the education of boys. Some suggest the need for

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more single-sex schools, more male role models or new teaching techniques. Others are experimenting with physical changes in classrooms that encourage boys to move around, rather than trying to anchor them to their seats.

But as they debate, high-priced tutors and college counselors have jumped into the fray by charging as much as \$100 an hour and up to bring boys to heel.

The tutors say their main focus is organizational skills because boys seem generally to have more difficulty getting organized and multitasking than girls do.

And so private counselors in places as diverse as Chicago, New York City, Sarasota, Fla., and Bennington, Vt., who guide juniors and seniors in applying to college, have devised elaborate systems — from color-coded, four-month calendars that mark dozens of deadlines to file boxes that students must take to each session.

Donna Goldberg began working with students in Manhattan on how to get organized 17 years ago. Her inspiration was her own son, then in seventh grade. Mrs. Goldberg was astonished to learn that he had not been turning in any homework.

“He opened his backpack, which was really a black hole, and he said, ‘Here it is,’” she said. He had not understood that in seventh grade he was responsible for handing in his homework, instead of waiting to be asked.

Some educators think the tutors are on the right track, whether or not there is science to back them up. “The guys just don’t seem to develop the skills that involve organization as early,” said Judith Kleinfeld, a psychology professor at the University of Alaska and founder of the Boys Project, a coalition of researchers, educators and parents to address boys’ problems.

Mrs. Goldberg, Ms. Homayoun and other private tutors say boys must learn not only how to organize, but also how to manage their time and even how to study.

Robert Gittings, a sixth grader, has been coming weekly to work with Ms. Homayoun since September. He, too, is asked to empty his backpack, and on one visit, cheerfully removed a vast collection of textbooks, binders, workbooks, paperback books and hardcover library books.

Most of the binders were orderly and reasonably neat. But there was a stack of papers from science, nearly an inch thick, that needed to be sorted.

“Do you have homework for tonight?” Ms. Homayoun asked.

He replied, “We have a work sheet.” But it was not in the homework section of the science binder or in his daily planner.

Then Robert remembered where he put it. From a side pocket of his backpack, he pulled a sheet of paper that has been folded into a tiny rectangle.

Ms. Homayoun laughed and said gently, “Maybe we should put that in the homework section?”

Ms. Homayoun opened her business, Green Ivy Educational Consulting, not long after graduating from [Duke University](#) in 2001. She created her organizational system — basically an elaboration of the ways she studied in high school — after she began tutoring six years ago.

“I would ask, What’s the class that troubles you the most?” she said. “I would ask to see the binder, and it would always be the messiest.”

She requires her clients to have a three-ring, loose-leaf binder for each academic subject, to divide each binder into five sections — notes, homework, handouts, tests and quizzes, and blank paper — and to use a hole puncher relentlessly, so that every sheet of school-related paper is put into its proper home.



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Students must maintain a daily planner; they are required to number the order in which they want to do each day's homework and draw a box next to each assignment, so it can be checked off when completed.

Homework must be done in a two-hour block in a quiet room, with absolutely no distractions: no instant messaging, no Internet, no music, no cellphone, no television.

While some girls need help getting organized, at least three-quarters of her students are boys, Ms. Homayoun said. Girls usually adopt her methods more quickly.

"Girls pick up on this much faster," said Ms. Homayoun, 28, who has a relaxed but firm manner and a gift for diplomacy with teenagers and their parents. "Boys, you still have to be on them for a while. They're not going to pick up on it immediately. You have to roll with it."

Two seniors arrived for weekly appointments, expecting to complete their college applications and file them online. But the tutor discovered that one boy left out sections of basic personal information on his application, while the other missed a requirement for three short essays by the [University of Virginia](#). Each was disappointed that there was more work to do.

"Sorry," she consoled one. "It's like thinking you've finished a marathon and finding out you have three miles left."

With guidance and constant follow-up, boys can make significant progress, Ms. Homayoun said. Ernie McMillan, 17, a high school senior who has been working with her since the summer before his junior year, is one example. He created orderly binders, kept on top of his daily planner, took notes while reading and even agreed to eliminate distractions during homework.

In the spring of his sophomore year, Mr. McMillan had a 2.8 grade-point average, a B-minus. After working with Ms. Homayoun, he raised his average to 3.1 in the first semester of his junior year. Last spring, he brought it up to 3.5, a B-plus.

"I was really happy about that," he said. "I always thought I could do it, and I didn't understand why I couldn't. I just needed that backing, that structure. I was turning in my assignments on time. I was working ahead on my classes. I was organized in a way I never had been before."

Mr. McMillan stopped for a moment, before adding, "She totally reworked my backpack, too."

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A Mother's Instinct, a Daughter's Need

By ANA HOMAYOUN

May 8, 2014 3:40 pm

A little over a decade ago, I made the mistake of taking my mother out to dinner on Mother's Day. The restaurant's high ceilings contributed to its poor acoustics, and the servers ran around with a frenetic energy typical of the other days of the year I avoid restaurants, like Valentine's Day and New Year's Eve. The clanging of dishes interrupted us midsentence, and occasionally, a baby wailed from the other side of the room. It was the type of environment my mother and I avoid with precision, and yet, there we were, regaling in Mother's Day splendor with all the other people who mistakenly felt obligated to eat out.

As mothers and daughters go, some would judge our communication skills as lackluster. I am pretty sure I forgot to tell her about my second book deal until I was midway through writing the draft. She, in turn, gave me less than two weeks' notice when she remarried: "Are you free next Saturday?" As much as I used to complain, I appreciate her simplicity and avoidance of drama. For all those friends whose mothers became overbearing at wedding planning or other life moments, I have a mother-daughter experience one could only dream of. When I get married, I will simply need to make sure my mother has the date on her calendar and a dress to wear, and we're pretty much set.

Amid this restaurant's ambient noise, we were grasping for conversation topics when she casually asked me about my favorite

childhood memory that involved her. I didn't miss a beat. "In the seventh grade, there was this one day where you surprised me and picked me up as I was walking home from school ..." I started.

We had never really talked about that day. Back then, we had just moved from rural northeastern Connecticut, where milk was delivered fresh from the farm, to Silicon Valley in California, where that probably seemed quaint and weird. I think I can accurately summarize my junior high experience as an all-over culture shock.

After school, I would walk home because my mom typically worked until about 6 p.m. and my dad was out of town. Depending on the day, the mile or so walk was either pleasant or terrible.

I don't remember what happened in school that day, though I can safely reason it was one of the days classified as excruciating. My feet were dragging, and I remember staring intently at the sidewalk with sullen focus. I was still within a block of the school grounds when my mother's burgundy Toyota Camry sedan pulled up alongside me. She smiled warmly from the driver's seat and asked, "Do you want a ride home?" She seemed giddy to have successfully surprised me.

I got into the front seat without saying a word and dropped my backpack at my feet. Within seconds, tears streamed down my cheeks. Moments later, I was bawling intensely and gasping for air. It was as if a flash of grief had hit me, and I was overcome with uncontrollable emotion.

She appeared calm, though I later learned that she had cried privately. As a child, I was far more likely to be mad than sad, so my outpouring was particularly unexpected. But, as we tend to learn in life, anger is often a mask for the sadness – and all that sadness came through on that car ride. When we arrived home, she softly asked if she could do anything. I shook my head. Later that night, she knocked on my bedroom door and asked if I wanted to talk. I didn't.

On that Mother's Day dinner, I saw moisture in the corner of her eyes when I recalled how meaningful her presence was for me that afternoon. It wasn't that I had particularly needed her to do or say anything – it was that for whatever reason, I had wanted her there. And there she was.

What I didn't know, until that evening, was why she had even ended up surprising me that afternoon. I assumed it was some fluke coincidence, though after nearly 35 years as my mother's daughter, I should have known better. She recalled how she was sitting in her office and had an overpowering sense she needed to pick me up, and dropped everything and nearly ran out her office door. We do a lot based on instinct in my family, so it came as no surprise that she would reschedule a meeting and drive 35 minutes with no plans, cellphone or strategy for how to find me based on sheer instinct. If I've inherited anything from my mother, it's the ability to say yes without second-guessing. I once rearranged my travel schedule so I could go with her to a doctor's appointment after I heard a trickle of fear in her voice. We don't question; we simply do.

Which brings me back to mothers, and in particular, my mother, on this Mother's Day weekend. We (ahem, I) can sometimes be hard on our mothers for what they can and cannot provide in terms of emotional support and in-depth analysis. Sometimes, we mistakenly focus on the shortcomings in the relationship rather than being grateful for what does exist. I've done all that. But I've also come to realize that it isn't the noisy dinners or the gifts or the "stuff" that makes our relationship significant and powerful. Instead, it is our simple instinctive presence that becomes the most meaningful present of all.

Ana Homayoun is an author, speaker and school consultant. She is the founder of Green Ivy Educational Consulting and the author of "The Myth of the Perfect Girl" (2012) and "That Crumpled Paper Was Due Last Week" (2010), both from Perigee Books. Visit her at www.anahomayoun.com.

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Parent-Teacher Conference

Where to Turn When the School Wants to Have Your Child 'Tested'

By JESSICA LAHEY

May 8, 2014 11:22 am

Dear Mrs. Lahey,

Our son's teacher recently asked that we have him tested. I am hazy on the details of this, and would like to know what "testing" for behavioral or cognitive issues entails. Could you explain the process?

T.L.

Dear T.L.,

This is a huge topic to cover in a single response, but here goes. Note that I've embedded more links than usual to provide a wide array of resources, including the United States Department of Education's Center for Parent Information and Resources that contains a wealth of resources and access to your state's Parent Center, which can help with the details of education law that vary from state to state. I will also list some of my favorite books on a couple of relevant topics at the end of this post.

First, try not to be freaked out by the word "testing." More often than not, the school wants to figure out how best to help your child learn, and wants to make sure it is not missing a diagnosis that can help guide instruction.

Now, let's get down to brass tacks. Testing, whether for behavioral or cognitive differences, falls under the same federal legislation, so let's start with the laws governing education and the language and acronyms you will be hearing about as your child's testing and potential educational accommodations unfold.

There are two pieces of federal law that govern your rights and dictate the process of testing: Section 504 of the Rehabilitation Act of 1973 ("504") and the Individuals With Disabilities Education Act of 1975 (IDEA). Section 504 requires public schools to provide a "free appropriate public education" to each qualified person (the student) with a disability who is in the school district's jurisdiction, regardless of the nature or severity of the person's disability. That sentence includes a few important, yet legally and practically vague, words: appropriate, qualified and disability.

As far as the school is concerned, "appropriate" is a big issue because it determines what kind and how many services it will have to budget for in the years ahead. Because the school may interpret "appropriate" differently from a parent, this word will come up a lot as you advocate for your child.

The IDEA requires schools to have a process for evaluating disability, and it also governs how states and public agencies provide services. This can either mean early intervention services for babies and toddlers or special education services to children ages 3 to 21. The word at issue here is "disability." The definitions of what is or is not a disability, and whether those disabilities qualify vary wildly. "Qualified" simply means that your child has been determined to have a disability that is covered under the law.

You mentioned that the school approached you about testing your child, but that, too, can mean a couple of different things depending on how you choose to proceed. You can elect to have the school district do the

testing at its expense (which is your district's taxpayer expense) or you can elect to have the testing done privately, with a professional of your choosing, at your expense (otherwise known as an Independent Educational Evaluation, or IEE). If your child is in private school, the state still has responsibilities regarding your child, but they are slightly different, and again, vary by state.

It is important to know what, precisely, the school is concerned about to narrow the focus of your child's testing so that it has the best potential to result in helpful and useful information. If the school is concerned about intelligence or academic ability, that will necessitate one form of testing, but if the school is concerned with behavioral issues, that can mean entirely different sorts of tests. Narrow the focus and remember that the goal is to obtain relevant information that may direct instruction and help your child learn, not to subject your child to the widest battery of testing available. If, for example, the teacher is worried about executive function issues, but your child's ability is not at issue, discuss the advisability and purpose of intelligence testing.

If testing reveals that your child has a disability, he is entitled to an Individualized Education Plan (IEP). You have the right to be a part of forming that plan, and you should be. These early discussions will lay the foundation for the services outlined in your child's IEP, and once the IEP is set, and you have signed it, it's a legal contract.

Above all else, be your child's advocate. While schools, and particularly your child's teachers, want to help your child get the best education possible, understand that parents and schools may have conflicting priorities or differences of opinion. Aim for long-term change rather than the application of Band-Aids and quick fixes. Keep accurate records of conversations with teachers and school administrators. Finally, make sure the services your child needs are manifested in ways that help your child succeed.

I wish you the best of luck in the road ahead.

Mrs. Lahey

Books:

Intelligence:

For a readable and fascinating account of what the label of "special education" can mean on a personal level and the research on neuroscience as it relates to "intelligence," read Scott Barry Kaufman's "Ungifted: Intelligence Redefined. The Truth About Talent, Practice, Creativity, and the Many Paths to Greatness."

Executive Function:

My two favorite books on helping children deal with executive function issues, even for children who don't have a diagnosable deficit but need help with organization, time management and self-control (read: most young adolescents) are "Late, Lost, and Unprepared: A Parents' Guide to Helping Children With Executive Functioning," by Joyce Cooper-Kahn, Ph.D., and Laurie Dietzel, Ph.D., and "That Crumpled Paper Was Due Last Week," by Ana Homayoun.

Dyslexia:

"The Dyslexic Advantage," by Brock L. Eide, M.D., M.A., and Fernet F. Eide, M.D. I was fascinated by this book about dyslexia and the little-understood differences between the dyslexic brain and the neurotypical brain. I can't recommend this book highly enough.

Learning Differences and advocacy:

"Wrightslaw: From Emotions to Advocacy: The Special Education Survival Guide," by Peter W.D. Wright and Pamela Darr Wright, is an invaluable resource on just about every aspect of special education law to

advocacy and the realities of planning, persuading and negotiating for special education services.

ADD/ADHD:

There are hundreds of ADD/ADHD books out there, from as many different perspectives, but “Driven to Distraction: Recognizing and Coping With Attention Deficit Disorder From Childhood Through Adulthood,” by Edward M. Hallowell and John J. Ratey is a great place to start.

Jessica Lahey is an educator, writer and speaker. She writes about parenting and education for The New York Times, The Atlantic, Vermont Public Radio and her own blog, Coming of Age in the Middle. Her book, “The Gift of Failure: How the Best Parents Learn to Let Go So Their Children Can Succeed,” will be published by HarperCollins in 2015.

This post has been revised to reflect the following correction:

Correction: May 12, 2014

An earlier version of this post referred incorrectly to the document that sets forth a schooling plan for some children after testing. It is an Individualized Education Program (IEP), not an Individualized Education Plan.

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Take the Pain Out of Homework: Strategies to Engage Your Child

Posted on January 8, 2014 by Erin | in Nannies

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Let's face it: As a child and adolescent, you probably didn't look forward to completing your homework. It was a chore and at times, a boring task that kept you from playing with your friends or watching television.

- It's likely your child feels the same. In fact, many children view homework as a boring endeavor containing repetitive activities, rote memorization

and a general lack of fun. It's not always a social or exciting task, but it can be.



As a parent or nanny, you can put the fun back into the daily homework routine with innovative strategies to engage your child.

Why the Fuss?

According to Dr. Elizabeth Garcia, chief academic strategist at Custom Fit, Inc., provider of academic counseling and tutoring in Fort Lee, N.J., a negative attitude about homework is common when children are involved in activities outside of school. "I think a lot of children view homework negatively because they feel over-programmed," she says. "Between school and homework and extracurricular activities, they can feel like they have no time to unwind and do the things they want to do."

Since extracurricular activities are pretty fun, homework comes in for the bulk of the bad feelings, says Garcia. "Many students are burnt out in all areas," she says. "And, they rush through assignments so as to complete each one on time instead of using them as ways to reinforce what they have learned."

Students view homework negatively because they cannot properly absorb what they learned due to time restraints, says Garcia.

Tackling Time and Distractions

Since time constraints tend to contribute to the "pain" of homework, it's important to create a consistent schedule for work and play with your child. Just as you would compile a weekly meal calendar or a chore chart, construct an activity schedule for the family, slotting out time for soccer practices, basketball games and more importantly, homework.

If your child is more focused right after school, reserve an hour for quiet homework sessions as soon as he or she returns home. Some children, though, may need a bit of a break from a day of school, so evening hours may work best. Even if you do not designate the same time each day, make sure homework is on the schedule to provide consistency and to establish expectations for your child.

Eliminating distractions can also help make homework time more productive. Have your child designate a study space free of distractions in your home, suggests Ana Homayoun, author and founder of [Green Ivy Educational Consulting](#) in Los Altos, California.

Turn off the television, remove all electronics and set up a desk with tools such as pens, pencils, paper, a calculator, scissors and rulers. This ensures there will be no need for your child to wander around to find what he needs to complete his homework.

Sit down with your child for the first 10 minutes to help him or her organize the workload, too. "Sometimes, students don't know how to get started and are overwhelmed by all the different things they need to do," says Homayoun. "Sitting down with them and having them make a list and prioritize what they will do first, second and third can alleviate the stress."

The key is to have them collaborate and converse with the parent or nanny without the adult taking the lead. This will teach your child how to prioritize and take responsibility for his assigned tasks.

Make Homework Fun

In a child's mind, the word "fun" is not often associated with homework. However, you can help make his required work a little more exciting with innovative activities and games. "It's important to emphasize the interesting parts of homework," says Garcia. "While writing a history paper on Louis XIV, for example, a

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student and I looked at his affairs as though it was an episode of a reality TV show. His life was every bit as dramatic as the Kardashians' and that makes him someone they can relate to, not just a random name in a book."

Beyond making an assignment interesting, you can also add humor to the task. "Another student and I were working on a Spanish presentation and included a bunch of silly photos of him," says Garcia. "Coming up with the funny scenarios helped ease the pain of coming up with descriptive Spanish sentences. The same sort of activity can work for English, science and even math."

Utilizing technology is also an innovative strategy to make homework more interesting

for your child. "I feel students respond best when using a mixture of mixed mediums, from the internet to books to social media sites," says Garcia.

Homework assignments could revolve around using interactive computer software to learn languages, cell phone apps to research historical events, YouTube videos or Facebook pages to promote and learn about current events or even blogs to launch a campaign promoting an environmental concern.

"We must update homework assignments in a way that utilizes the benefits of technological advancements," says Garcia. As a result, the dread of completing daily homework assignments may disappear.

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How Much Homework Is Too Much?

By Beth Engelman - September 1, 2013



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When it comes to [homework](#), how much is too much? That's one of the questions raised in a [New York Times](#) piece, "The Trouble with Homework," which ponders why U.S. students rank lower than many of their international counterparts when it comes to math, reading and science despite the fact that U.S. kids are loaded down with more homework now than ever.

Part of the problem may be that tons of homework doesn't help. Advocates like Alfie Kohn, author of [The Homework Myth](#),

and Nancy Kalish and Sarah Bennett, authors of [The Case Against Homework](#) argue that none of the supposed benefits of homework -- that it reinforces learning or promotes achievement -- are backed up by convincing research. What's more, they say, it detracts from family time and creates stress and frustration for kids.

So how much is too much? One common measurement is that students should get about 10 minutes of homework per grade level, according to family health advocate Wendy Young, founder of [Kidlutions](#). Talk to your child's teacher if you think he's being loaded down with an unrealistic amount of busywork. Then follow these smart tips to help your little learner succeed.

Remove distractions. Removing distractions such as the TV, computer and phone will increase your children's ability to get homework done quickly, according to Ana Homayoun, founder of [Green Ivy Educational Consulting](#). If a computer is needed to complete the assignment, turn off the Internet so your child won't be tempted to browse.

Be consistent. "Have your child dedicate a block of time each day for doing homework," suggests Young. She also recommends keeping the time frame consistent which will help your child feel more organized and less overwhelmed.

Help your child get organized. Being organized can make the homework process run smoother, but it can be a challenge for some kids. Family coach [Lynne Kenney](#) recommends sitting down with your child and writing out each of the night's assignments on one sheet paper. As your child completes a task, have him cross it off the list. Writing a checklist will also come in handy when your child has long-term assignments. At the start of the project plot out each step, which your child can cross off once complete.

Unwrap the sugarless gum. If your child has trouble concentrating, try offering him a stick of gum. "Chewing gum helps concentration," says Occupational Therapist Angie Harisedes. It helps to burn off excess energy, which in turn helps the chewer, feel calmer, more centered and focused.

Help kids to be their own advocate. Sometimes a student's workload is just too much.

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... of time it takes to complete each assignment. Then set up a meeting between your child and his teacher where they can discuss the issue and come up with a collaborative solution. If the meeting isn't successful, then you can step in.

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What is Perfect?

Debunking *The Myth of the Perfect Girl* with San Francisco author and educator Ana Homayoun.

By Jennifer Massoni Pardini

Reading Ana Homayoun's book, *The Myth of the Perfect Girl: Helping Our Daughters Find Authentic Success and Happiness in School and Life*,

I couldn't help but be reminded of the academic and social pressures that characterized my own academic years. But Homayoun's decade of experience as the founder of Green Ivy Educational Consulting in Los Altos and as an educational speaker on campuses around the country and abroad has shown that while the landscape of learning may be reminiscent of days gone by, it has changed—both on and off campus.

Today's girls and boys are learning and maturing within school systems heavily focused on achievement. Technological distractions are vying for their limited free time, they have increasingly competitive college admissions standards to surmount, and an ever-savvy social network and media-driven culture to navigate. Schools and students alike turn to Homayoun for help in understanding this ever-changing intersection of technology, learning, motivation, and socialization, as she defines it.

Also the author of *That Crumpled Paper Was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*, Homayoun decided to focus on issues facing girls in order to address a number of questions she had about the school-age girls and young career women who work with her. "Why do we have so many girls who did everything right and feel they are still not good enough? Why are there higher rates of

mental issues among girls? Why is meanness more out of control than ever before?" She found answers with an investigation into the way technology, culture, and expectations are affecting modes of learning as messages from the media, parents, peers, and school compete for what a young girl should focus on, be, and do in order to fill a so-called "perfect" mold. Meanwhile, the culture's relentless expectation of achievement seems steeper than ever. "It's important to emphasize how new this culture of achievement is," Homayoun writes in the book, out this month from Perigee, a division of Penguin Books. "People have always striven for the best, of course, but the single-minded focus with which this end-results perspective attacks and upends the system of education and its breadth across the culture are new, and girls, who are more prone to buying into its temporary rewards, are especially at risk."

If you're wondering how different things really are from when you or I grew up, consider that academics are moving at the speed of technology. Take the student who comes to Homayoun's office because her homework takes five hours, but discovers through simple time-management exercises that two hours of texting and social networking are happening simultaneously? Much of it has to do with age and maturity. "Many teen-agers have a tough time self-regulating and can react a lot more to the quick fixes rather than understanding what they should focus on," Homayoun explains. "Ten or 20 years ago, if someone was calling

us, they were calling our house phone. Now, kids have cell phones and are getting text messages in between homework and in the middle of the night—and they're responding." Girls, especially, who are so relational, may recognize that such disruptions are affecting their sleep and productivity, but still engage because it's important to feel available to their friends 24/7.

This online style of communication also magnifies bullying, which can be a debilitating distraction. "Before, they rolled their eyes at someone at school," says Homayoun. "Now, they can go online and the meanness follows a student home and has a digital footprint. The issues are similar, but now they're pervasive." Technology isn't going anywhere, and Homayoun is well aware that the answer is not telling our kids to stay away from it, but for both parents and students to understand its affects. Homayoun asks each student: "What is it you really want and what do you need to focus on to get there?" Much of the time, the answer is to have more free time or develop an interest to pursue "just for fun," so she works with the student to manage her time to meet that goal.

This focus on the student's wants pervades Homayoun's approach in the book, at her Green Ivy office in Los Altos, and in her spoken message as a full-school consultant, leading faculty in-services, parent education nights, and student presentations. By helping educators, parents, and students understand the challenges facing both girls and boys today, "it gets everyone on the same

page about having an engaged learning environment and helps give students an intrinsic motivation to see what they want out of their school experience. I ask students how they can be the builder of their own world, and a lot of these students have never actively considered that question."

Homayoun's book's overall goal is to provide the appropriate tools and strategies to both understand and break down these boxes so young girls can build up a sense of their own unique purpose without being motivated purely by external validation. For instance, by being motivated by their own empathy for others, our daughters can do community service because they want to help rather than to primarily appeal to college admissions directors. "Teenagers can mistakenly think something is not important because it's not on a résumé, but those things build a life," she says. And it's on us to lead by example. "You are a great everyday role model," she says to parents, which often means encouraging creativity and exploration outside of school as much as in. "Kids look at what you do all the time. If you don't have an intrinsic sense of purpose yourself, it's really hard for them to buy into that message."

Without this self-awareness, the self-defeating irony is that focusing on filling the box can make one feel like the box is, in fact, empty. Homayoun suspects this is why the young women she meets on her college visits as well as the early career women she counsels are also feeling unfulfilled by their achievements or burned out altogether. "It's as if they've been told by this post-feminist world that not only can you have it all, but you should have it all, and if you don't, something's wrong with you—and you should look awesome while doing it."

So, how do we go about this profound shift in thinking and acting? The answer is with small, manageable shifts. Homayoun's book offers tangible tools and interactive exercises designed to bring parents and daughters together so everyone can think outside the box. The exercises range from the whimsical (asking your daughter to design her dream business) to the practical



(working on time sheets together so you can both gain a better perspective on how much time your daughter's schooling, sports, and extracurricular activities really take). "The exercises are conversation starters, so you can approach things in a way that's not judgmental," she says. And this is a conversation we should start early on with our daughters.

With this spirit of inquiry, Homayoun's philosophy isn't about focusing on the prob-

lem, but rather on what the individual—whether it's the student, the parent, or the educator—can do to surmount it. I dare say all will learn from taking on and debunking today's myth of the perfect girl. ♦

You can contact Ana Homayoun about her educational consulting, career coaching, and speaking engagements by visiting www.greenivied.com or www.anahomayoun.com.

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By Grade By Subject Learning Differences Homeschooling Parental Involvement Study Skills Your Child's School Tests & Grades

Home > School and Learning > Learning Differences > Special Education > 5 Essential Tools and Tips for Disorganized Boys

5 Essential Tools and Tips for Disorganized Boys

by Erin Dower

In This Article:

- **Why boys are lagging in school**
- Your child's style and circumstances

Why boys are lagging in school

We recently spoke with Ana Homayoun, the author of the book *That Crumpled Paper Was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*. She holds a master's degree in counseling psychology and is the founder of Green Ivy Educational Consulting.

Boys are falling behind. Only two-thirds of boys in the U.S. earn a high school diploma – a 7 percent lower graduation rate than girls, according to a June 2010 *Education Week* report.

The gender gap extends to college, where for every 100 women enrolled, there are just 77 men.

"We've found that boys are struggling, not only academically, but also in their self-esteem," said Ana Homayoun, author of *That Crumpled Paper Was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*. "They're two to three years behind girls in terms of puberty and that really affects their performance in school."

Many parents can relate to the helpless feeling of realizing their child has, once again, **forgotten to do a homework assignment**. Homayoun's book focuses on tangible tips and tools for helping preteen and teenage boys become more organized. By learning the basics of being organized, managing their time, and focusing on appealing and attainable goals, boys can get back on the path to completing high school and going on to college or other endeavors.

5 Tools for Getting Boys Organized

Getting organized can seem like a daunting task, but Homayoun says it really comes down to one simple tool: a binder.

"I talk with kids a lot about having things in one place," she said. "Having a binder for every subject and keeping things in one place really reduces the anxiety of not knowing where something is."

While there are a lot of fancy school supplies out there that seem more impressive to parents and kids, Homayoun recommends these simple supplies:

- **A binder for every subject.** "In their mind and physically, they can separate out what they're working on. It saves time."
- **Five tab dividers for every subject.** "Use them to separate notes, homework, handouts, tests/quizzes, and paper. It helps you avoid that overstuffed front pocket of a binder."
- **A standard hole punch.** "Have a big one at home and a smaller one for your child's backpack so they can punch holes and put things in their binder. Some kids will use it at school, some won't. Every kid is different."
- **A written planner.** "I work with teens, especially preteens, on using a written planner for their assignments. A lot of times, kids will forget about things if they use an online or handheld planner."
- **A kitchen timer.** "This is for kids to time themselves, working for 20 to 40 minutes, taking a break, then coming back to it. Every kid is different in terms of how long they can focus on their work before needing a break."

In her book, Homayoun acknowledges the uphill battle in using these tools. "Let's face it – most kids would rather get their wisdom teeth extracted, sans anesthesia, than organize their binders and backpack with their parents (and probably vice versa). But the key to academic success lies with these tools and how they're used."

By using this binder system, she said, if a student needs to go to the library to work on a project, they only need to grab two things: their textbook and binder for that subject.

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"We as adults tend to forget how many distractions kids have these days," Homayoun said. "An ideal work environment is free of technological distractions. No cell phone. No computer."

But for some kids, sitting alone in a quiet room for an extended period of time will make them more likely to make paper-clip animals than to complete their homework, she said. "Not every kid needs utter silence. Know your kids' style. Some kids like to be in the kitchen because they know their mom is close by."

A large table or desk (one from Target or IKEA will do) with room to spread out books and papers is the ideal spot for doing homework, while the bedroom – especially on the bed or facing it – is the least ideal location because it should be a place of rest, she said.

Next: Your child's style and circumstances >>

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Claudia A. Donohue · SUNY New Paltz

I like the timer idea. My son melts down every time he has to read and respond to text. I am going to try 10 minutes first and then add 2 - 3 minutes each time. Wish me luck!

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Just love this article. I wish I had of read it ages ago for my own boys.

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at the 2014 Communicator Awards. This valuable checklist comes with games and activities to help your child practice the essential skills she needs for kindergarten. [Download the Kindergarten Readiness app today!](#)

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Interview with Ana Homayoun '01, Founder and Director Green Ivy Educational Consulting

Interview by Howie Rhee '04 on March 8, 2011



Ana Homayoun '01, is the Founder and Director of Green Ivy Education Consulting, based in California. Their "innovative organizational strategies and study techniques help students dramatically improve their academic performance and reduce the stress and anxiety often

associated with juggling a rigorous course load and extracurricular activities. In teaching organizational and time-management skills, we help students provide the framework for their own academic and personal success. Most importantly, we help students start to think about pursuing their own personal passions, and empower students to realize their full academic and personal potential."

Tell us about your time at Duke. What did you

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study and what were you involved in? Did you do anything entrepreneurial while you were here?

When I was at Duke, I was a [Program II](#) major and was involved in a number of different activities. My Program II was entitled "Health Policy and Globalization" and I took quite a few cultural anthropology, public policy, psychology and sociology classes. I also took classes at UNC-School of Public Health. What I liked most about my major is that I focus on taking classes that I was genuinely interested in. Outside of class, I was in a sorority and was the treasurer of Panhel, but was also a member of the Undergraduate Judicial Board and a Resident Advisor. I came to know a wide cross-section of students and administrators who had different academic and extracurricular interests and perspectives, and I think that is what I liked most about my time at Duke.

I wish [Entrepreneurship at Duke](#) had been around when I was there. Though I really didn't do much at Duke specifically in relation to starting my own business, tutoring privately for families and designing my own Program II degree were both pursuits that encouraged me to think and act creatively.

You worked at Merrill Lynch after graduating. Obviously a lot of Duke undergrads want to join a company like Merrill Lynch. Tell us about that experience.

I have a great story about how I got the job at Merrill Lynch. In January of my junior year, I needed to get a summer internship. I went to the DukeConnect database, where alumni post their career and contact information, and looked up a woman who was a Duke Alum and worked in the Technology Investment Banking Group in Palo Alto. I didn't know her, but I sent her a nice, thoughtful email with my resume attached. A few weeks later, she called me while she was waiting for a flight in Boston and we had a thirty minute ad-hoc telephone interview. She was apparently impressed by what I had to say, and went to the effort of helping me secure a coveted full time paid internship that summer in the Technology

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Investment Banking Group. After that summer, I was given a full-time offer. Just shows that the Duke network does work!

I went to work for Merrill Lynch after graduation in June of 2001, and it was a weird time. The technology bubble was bursting, and many of the full-time employees from the summer before had left or been laid off. After 9/11, things became even more bleak. I worked long hours, and spent a lot of time with Excel and Powerpoint (two things that I readily admit are not strengths of mine). I started to think about the other things I wanted to do in my life, and none of them involved Excel, Powerpoint, or working in a cubicle. When I was laid off in November of 2001, I saw that as a chance to start something new. With my severance package, I started tutoring privately, and eventually built what is now Green Ivy Educational Consulting.



You started Green Ivy Education Consulting in 2001. Tell us the story of how it got started.

After I was laid off from Merrill Lynch, I reflected on what I enjoyed most and the times when I was happiest. And those times were always tutoring and working with children and teenagers. Within three months, I had more clients than I could handle and was booked solid. Initially, I tutored as a way to "pay my bills" while I figured out my next steps. But pretty soon, I realized how lucky I was – I loved my job and was working with great families, helping kids completely transform their lives and feel good about themselves, and most mornings, I managed to make 9:15 am yoga classes. For me, it was the perfect job.

The company has done well and you have been in business for almost ten years. Tell us what your business is like these days. What do you spend your time on, and who is your typical client?

We have been so fortunate to have grown organically, through word-of-mouth and referrals from wonderful

parents, educators and psychologists in the area. Our website is www.greenivvyed.com.

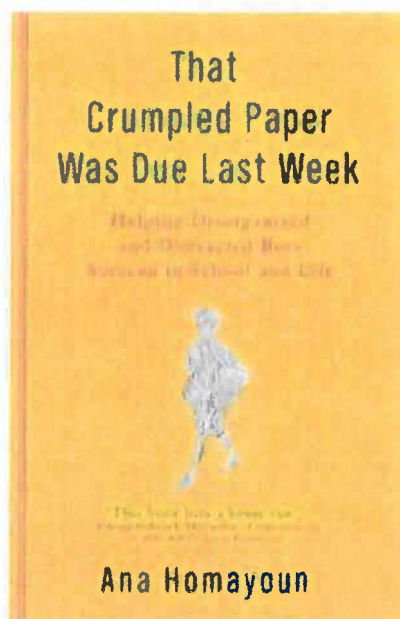
Today, I spend most of my time giving talks to parent groups and school groups locally and nationally, writing, and working directly with students who are in the midst of the college admissions process. Our typical client is a student who is in junior high or high school, and needs support or help with organization and time management skills, writing skills, school work, standardized testing or college admissions. Much of what we do is to help empower students to hone in on their own personal passions and interests feel good about pursuing all of their opportunities and possibilities.

As you reflect back on the years since you've started, what are some of the things you've learned that you wished you'd known when you were starting. Thinking back to when you were a student, were there things you wished you'd done differently to prepare for being an entrepreneur? And what did you do as a student that you are glad you did?

I was a pretty committed student, and for the most part, focused on taking classes I enjoyed. If I could do it over again, I would probably have taken more risks and gotten into more creative endeavors earlier on in my Duke Career – for instance, I took a documentary photography course my senior year and loved it. I wish I had discovered the Center for Documentary Studies earlier and taken even more risks with my classes and activities.

I think being a Program II major helped prepare me for being an entrepreneur, because in some ways, I had to come up with a plan (my proposal), convince the Deans that it was worthwhile (the pitch), and work hard to make it a reality. For me, Program II was a great way to think outside the box.

You recently wrote a book. Tell us what this book is about. What was it like writing a book? How



long did it take, and what was the process like? How has the book impacted your business?

My first book, [That Crumpled Paper Was Due Last Week](#), is a parenting book on how to help boys who are struggling with being disorganized or distracted. Duke Magazine did a great

piece on it [here](#). Writing the book was a great experience, because I was able to put many of the ideas and experiences I had seen in my work into a book that reached a much wider audience. Now, I get emails from all across the country from parents, educators, and psychologists who have found the book to be incredibly useful in their home or classroom. The book has definitely had a positive impact on my business – more people are aware of us and our work, and I have had many opportunities to speak at schools locally and nationally.

For students that are thinking of starting a company, but thinking about getting investment banking experience first, how would you help them analyze that decision?

Personally, I think that every experience can be valuable – however, I would encourage students to ask themselves why they really want that investment banking job first. I definitely don't think that you need to work for an investment bank or consulting firm before you become an entrepreneur – and in most cases, it might delay your efforts more than you think. Truthfully, the only real reason I pursued the job was that someone said it was a really tough job to get and so I thought that if everyone wanted it then it should obviously be good. Looking back, it wasn't the right job for me and I really didn't enjoy the experience.

Regardless, I learned important lessons on what I valued in my work and life, and how I wanted to create a work environment based on those values.

A lot of students get stuck on the idea they need to do something incredibly high tech like create the next Google or Facebook. And a lot of them think they need to keep their idea a secret. They might look at a business like yours and say "it's not a technology innovation" and say "if I tell someone my idea, why don't they just steal it and do it themselves?". How do you advise students that are thinking in this way?

At Green Ivy, we spend our time focusing on the students and families who we are so fortunate to work with – for us, it is those relationships that have built our company to what it is today. With regards to keeping an idea secret, I think it really depends on what you are doing. The downside to keeping an idea a secret is that you are potentially closing yourself off from people whose insights could really benefit the long-term growth and potential of your idea and company.

Anything else you'd like to share with Duke students?

Sometimes, I think that we tend to mistakenly focus solely on those who are building technology companies and/or take venture money when we are talking about entrepreneurship. But there are so many entrepreneurs like myself who built small businesses with very little or no start-up financing, and managed to make it all work by keeping their overhead low, working hard and being creative. In addition, I think that one of the most important questions entrepreneurs should ask themselves before launching a business is "How am I going to make money?" I don't care how big or small your business is, unless you are independently wealthy, you are going to need to figure out how to pay your bills. There are so many businesses that have been created without any real way to generate revenue, and to me that seems confusing and short-sighted.

Ana Homayoun

Do you know many people who have founded a successful company, published a book, and been profiled in *The New York Times* by 30? Well, meet Ana Homayoun, who was all of 22 when she founded Green Ivy Educational Consulting in her hometown of Los Altos in 2001. After graduating from Duke University, she returned to the Bay Area, knowing she “wanted to help kids get where they wanted to go.” With Green Ivy (her educational consulting firm), she has been doing just that, by empowering middle and high school students to design their own frameworks for success, both in and out of the classroom.

Four years ago, Homayoun noticed that half of her students were sophomore boys who were struggling with organizational and time management, conditions that resulted in equal parts “crumpled homework, missed assignments, and falling grades.” “Boys are not graduating at the same rates—it’s a real epidemic,” explains Homayoun. Boys are now flourishing through Green Ivy’s one-on-one work, organization, and time management workshops, as well as figuring out each student’s individual drive or motivation.

It’s exhausting just to think about what the modern adolescent student is up against—keeping pace with a school structure that has changed drastically in the past 30 years, not to mention ever more sports, activities, and the often incredible expectations put upon them. “They are trying to get to the next place at the next time, but their brains haven’t developed ways to come up with organizational skills yet,” Homayoun says. This is especially true for boys, who are more likely to be diagnosed with ADHD than girls.

Enter *That Crumpled Paper Was Due Last Week: Helping Disorganized and Distracted Boys Succeed in School and Life*, her new book designed to help parents apply her helpful methods and tips right at home. “I wrote it in my second year at USF,” she says because, oh, yes, Homayoun also earned her Masters in Counseling while working full-time at Green Ivy.

With their papers and their lives better organized, there may be a little more time left in the day to just enjoy being a kid. —JENNIFER MASSONI ■

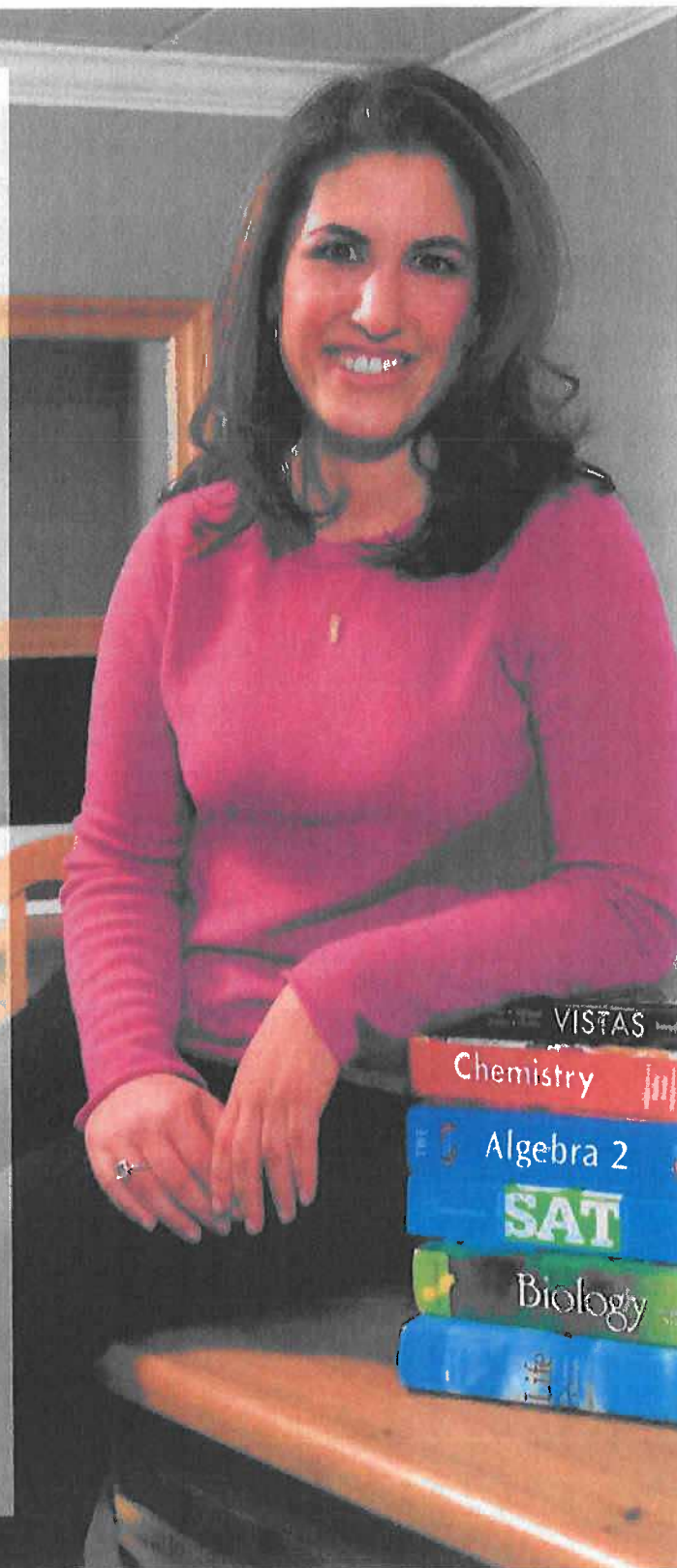


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Help teens get handle on piles of paper

By BETH J. HARPAZ, Associated Press

Feb 8 2010 12:01 am ☉ Mar 18 11:34 pm

NEW YORK -- There's a reason why a new book about helping disorganized teenagers was published midway through the school year, rather than in September.

"When you go back to school in September, everything is fresh and everything is new," said Ana Homayoun, author of "That Crumpled Paper Was Due Last Week" (Perigee/Penguin, \$15.95). "But

now you've got first- semester grades," and that can be a reality check.

Midwinter is also a good time to establish new habits for what's left of the school year, and getting a handle on all the crumpled papers lurking in backpacks, folders, desks and elsewhere is an important first step, Homayoun said in an interview.

"We typically recycle a few brown paper bags full of paper in the course of going through their backpacks and organizing their binders for the first time," said Homayoun, founder of Green Ivy Educational Consulting, based in the San Francisco Bay area.

Homayoun says she motivates kids by explaining that once they're organized, "they're going to get their homework done faster, and they'll have more time to do the things they want to do," whether it's music, sports, video games, Facebook or just hanging out with friends.

She added that getting organized not only helps kids with school work, but also reduces stress and helps them succeed in other areas as well.

To get maximum cooperation from your teen for the paper-sorting project, schedule a mutually agreeable time a few days ahead. Saturday afternoon is ideal.

Then clear a flat, empty surface for the paper dump. Dining room tables are perfect.

A three-hole punch is crucial to Homayoun's system, along with an inch-thick binder for every subject in school, with tabbed dividers in each notebook for homework, quizzes, notes, etc. Get large envelopes for storing papers from last semester (one per subject), and have a recycling bin handy for paper that can be thrown away.

Homayoun says the accordion files and pocket folders recommended by many schools don't work for all students. "It overwhelms them," she said. "Kids need to know they have a place for everything."

As you work through the pile, don't berate your child for the quiz with the low grade, the homework that wasn't handed in or the notice you never got. Just punch holes in each sheet, place it in its new home and move on.

"The key is that you go through every piece of paper," she said.

Set a timer and see how much you can do in an hour. Homayoun says she can get through any pile in 90 minutes, but she cautions against spending more than two hours at home on the project.

Some kids may welcome your help, but if your teen wants to tackle the pile alone, Homayoun recommends that you get your own paperwork to organize and work side by side.

Once the papers are under control and the new organizational system is in place, Homayoun says a few other changes are essential to help your teen work more effectively.

One of the most important things you can do is to create a study space for teens outside their rooms. The dining room, which in many homes is underutilized and is often located away from TVs and computers, may be ideal for studying.

Homework that doesn't require a computer should be done first, Homayoun says, because once kids sit down in front of a screen, hours can be wasted on Facebook, IMs, games and surfing.

She emphasized that parents have no idea how much time kids fritter away when they are in their rooms supposedly doing school work.

"Kids are really honest with me," she said. "I'm not there to judge them, so they'll tell me, 'I regularly spend two hours a night just on text messages or I spend five hours on Facebook.' "

With that in mind, designate a "technology box" where cell phones and iPods can be put away until homework is done. Otherwise kids constantly interrupt their concentration to respond to texts and calls.

Homayoun said music, unless it's classical, is also distracting.

Also, provide a planner with a weekly grid and enough room so kids can jot down assignments for each class, each day. Some schools hand out planners, but Homayoun says they are often so small that kids can't easily use them, especially kids with large handwriting. She says calendar apps on smart phones are also too small for juggling assignments; kids need to see the big picture of what's due when.

The subtitle of Homayoun's book is "Helping Disorganized and Distracted Boys Succeed in School and Life," but she says some girls need help as well.

While Homayoun has observed that teenage girls are often better at multitasking than boys, about a third of the students Green Ivy sees are female.

Regardless of gender, Homayoun has noticed that after the initial paper cleanup, a lot of kids say, "My backpack is so much lighter now!"

She's not sure the crumpled papers weighed all that much, but sorting through the mess "is both a literal and a figurative load off their shoulders."

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Creativity-Focused Private School Plans 2014 Opening

By Irene Plagianos (//www.dnainfo.com/new-york/about-us/our-team/editorial-team/irene-plagianos) on December 11, 2013 9:16am | Updated on December 11, 2013 9:24am
@IrenePlagianos (http://twitter.com/IrenePlagianos)
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FINANCIAL DISTRICT — A new Financial District private school that aims to develop independent, creative young learners is now accepting applications for its September 2014 opening.

The Pine Street School (<http://greenivyschools.com/pine-street-school.html>) plans to launch its preschool, kindergarten and first-grade classes next year, offering a Montessori (http://en.wikipedia.org/wiki/Montessori_education) program that allows kids to learn at their own pace, said Jennifer Jones, the school's founder.

"We want to create a haven for the children," Jones said at a recent Community Board 1 (<http://www.dnainfo.com/new-york/tags/community-board-1>) meeting, as she presented a slideshow of the school's spacious layout, which will eventually house preschoolers through eighth graders. "We want to create a supportive, comfortable environment for their education."

The 75,000-square-foot school, which uses nature as an inspiration for its internal design, will take up the second, third and fourth floors of the Trump Building, a 70-story skyscraper at 40 Wall St. — but the school will have its own dedicated entrance on Pine Street, near William Street.

The Pine Street School will offer both Montessori (http://en.wikipedia.org/wiki/Montessori_education) and International Baccalaureate (<http://www.ibo.org/>) programs. Parents will be able to decide which track their child will follow, either the creative Montessori or the more traditional International Baccalaureate.

Along with bright, roomy classrooms, the school will feature two multipurpose studios for music and movement classes, a dedicated performance space and areas for students to study and eat. There will also project rooms for art, science and culinary studies.

Each class will have no more than 15 students, with preschool classes capped at 10 students. The school plans to enroll 10 classes of 2-to-6-year-olds next fall. The sixth-grade class will launch in the fall of 2015, and then the school will grow from there.

The Pine Street School is the second private school Jones has launched. Last fall, the Lower Manhattan mother, who has a doctorate in education from Columbia University's Teachers College, opened Battery Park Montessori (<http://greenivyschools.com/battery-park-montessori.html>), a preschool in Battery Park City. It was designed to be the first in her growing Green Ivy Schools network.

Jones said she decided to open schools Downtown in part to address the overcrowding crunch in the neighborhood's popular public schools (<http://www.dnainfo.com/new-york/20130211/battery-park-city/downtown-families-face-continued-space-crunch-beloved-elementary-schools#ixzz2KspTz471>) — but unlike the public schools, the Pine Street School will charge tuition. Fees will range from \$19,000 to \$29,400 per year, with discounts for siblings.

All Green Ivy Schools will offer scholarships, Jones added, "as part of our long-term plan and commitment to the families of Lower Manhattan."

For more details, visit the school's website for information session times and dates. (<http://greenivyschools.com/pine-street-school.html>)

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EXHIBIT O

BUSINESS

ABCs and Ivy on Wall Street

By **Lois Weiss**

March 27, 2013 | 4:00am

Does **Blue Ivy** have some Green Ivy in her future?

The Green Ivy School is putting down roots at The Trump Building at 40 Wall St. and may open just in time to serve pre-schoolers like **Beyoncé** and **Jay-Z**'s little TriBeCa cutie when she turns two next year.

"We're very excited about the space," said **Donald J. Trump, Jr.**, of the 80,000-square-foot deal to create a "building within a building."

"The use will be great for the area and will revitalize the Pine Street entrance," the developer said.

The school, expected to serve pre-schoolers through eighth graders, will have its own entrance on Pine Street and two new dedicated elevators for its space that will encompass the 2nd, 3rd and part of the 4th floors.

Jeffrey Lichtenberg and **Jared Horowitz** of Cushman & Wakefield represented the Trump Organization in the 25-year deal while C&W colleagues **Glenn Markman** and **Joseph Cirone** worked on behalf of the school, which is also opening a pre-school in Battery Park City.

Lichtenberg said the idea germinated during a C&W market meeting when he and Horowitz learned about the many schools in the marketplace, and it quickly sprouted from there.

"Don Jr. embraced the concept right away, and with the help of the Trump construction people, we were able to create a dedicated entranceway on Pine Street and install new elevators," said Lichtenberg.

While the asking rents for the space were in the mid-\$30s per square foot, these are the lowest office floors in the 70-story building, and the space was unable to be incorporated into higher-paying retail use that now includes the Duane Reade.

Upstairs, asking rents are in the mid-\$40s per foot.

During the last four years, the leasing team and Trump have leased more than 600,000 square feet.

The 7th, 8th, 9th and 10th floors are now leased to CNA Insurance on a deal that expires in one year.

A week ago, the 10th floor of 36,490 square feet was leased to First Investors, which was represented by **Marc Shapses** of Studley and will be able to occupy the space within 120 days.

Green Ivy was founded by **Jennifer Jones**, Ph.D., whose website says she has founded as many as 15 other schools. She did not return e-mails for comment, but the school website states: "Thanks to our investors, our Battery Park City pre-school site will open Fall 2013, and our preK-8th Grade site in FiDi will open Fall 2014!"

The pre-school, Battery Park Montessori, will be located in the Regatta at 21 South End Ave., where three-hour daily sessions for two- to 4-year-old students will cost their folks \$17,000, and a full day for four- and 5-year-olds sets them back \$27,000.

The C&W brokers representing the school declined to comment.

The Times Square South office building at 1412 Broadway is heading to market and could sell for around \$250 million.

Now owned by Harbor Group, a Norfolk, Va.-based company led by **Jordan Slone**, the 420,000-square-foot building was purchased in 2010 for \$150 million.

The company then invested \$10 million in a new base façade, lobby, elevator cabs and other upgrades to bring it to 96 percent leased.

The property also includes a small retail annex at 1420 Broadway that was purchased in 2011 from Emmes for \$10,273,445 and also received the façade-lift.

Tenants range from traditional fashion companies like Jones New York and Escada to Oberon Securities and media and tech tenants.

Slone has hired investment gurus **Douglas Harmon** and **Adam Spies** of Eastdil Secured to market the building on the northeast corner of West 39th St.

No one from Eastdil or Harbor returned requests for comment.

Buffett strikes Goldman...

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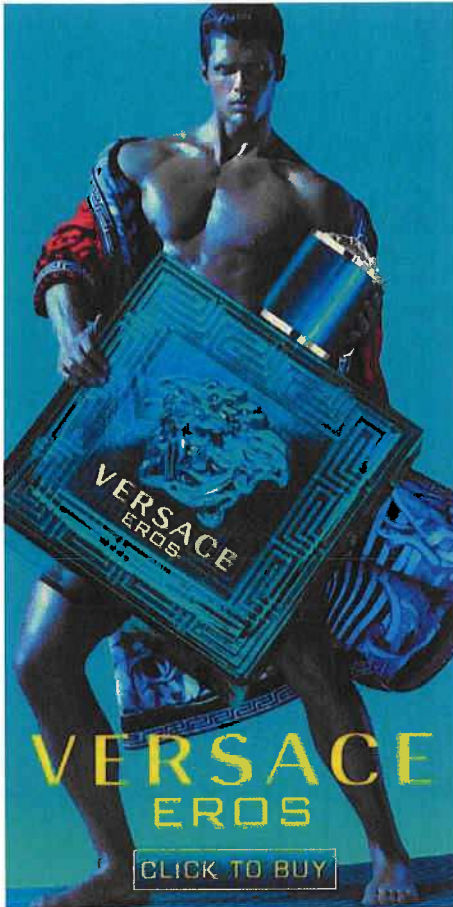


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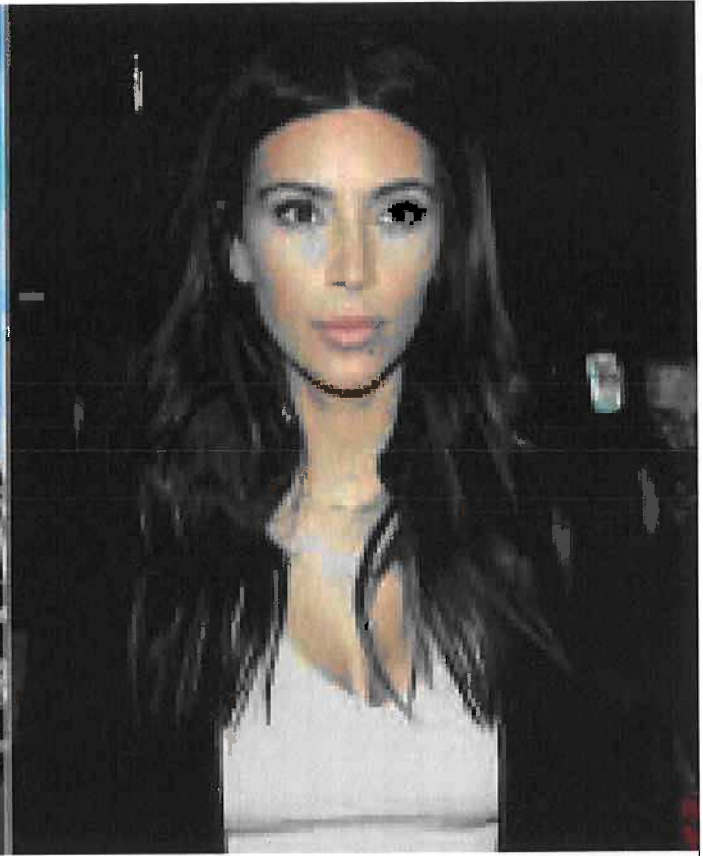
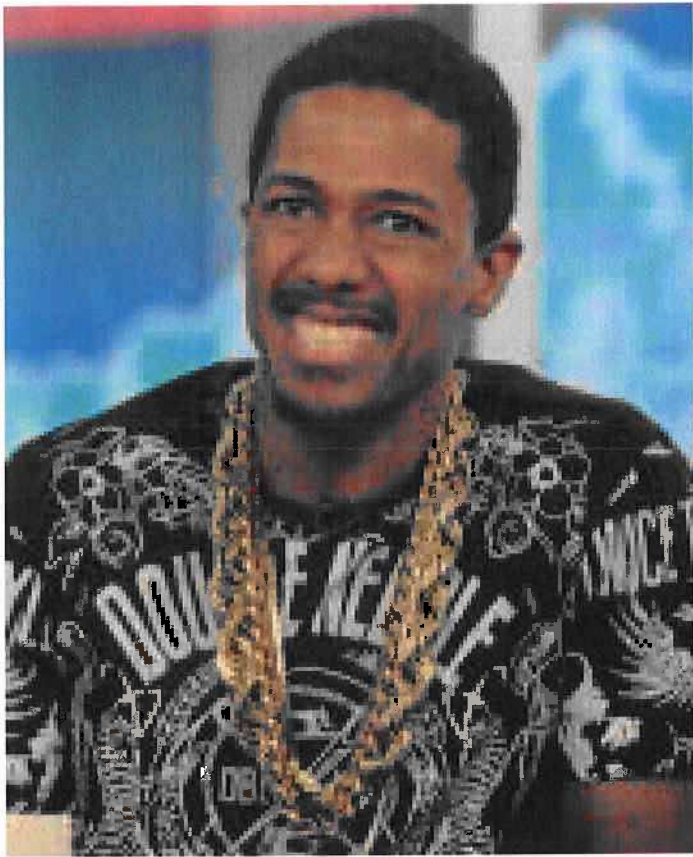
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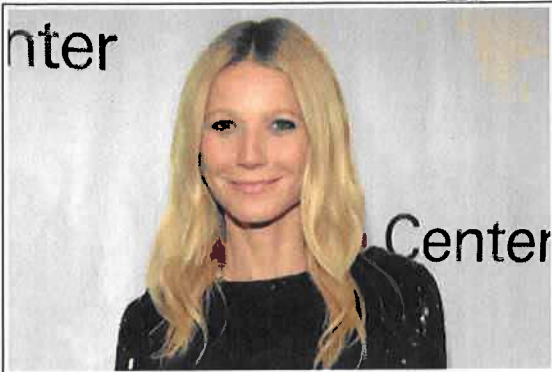
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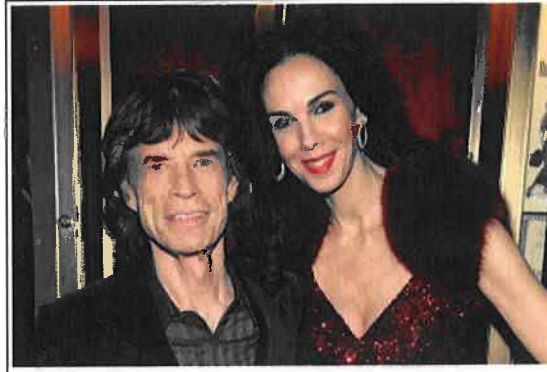
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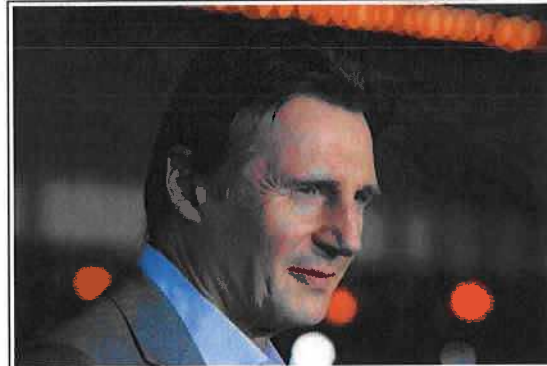


A working mom's open letter to Gwyneth



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EXHIBIT P



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EXHIBIT Q

Subject: Fwd: Reaching out regarding our trademark discussion

From: Ana Homayoun (ana@greenivyed.com)

To: vicky@greenivyed.com;

Date: Tuesday, September 17, 2013 11:53 AM

Sent from my iPhone

Begin forwarded message:

From: Jennifer Jones <jjones@greenivy.com>
Date: September 17, 2013 9:21:39 AM PDT
To: "ana@greenivyed.com" <ana@greenivyed.com>
Subject: Reaching out regarding our trademark discussion

Dear Ana,

I think the note below was meant for you, but was glad to have this excuse to reach out. I am so impressed with what I have read about you.

I realize that your attorney has filed an opposition to our trademark filing, and we will be filing our response shortly, but I wonder if there is not a way for the two of us to avoid paying all of these legal fees and come to an understanding that we can both live with.

Would you be open to having a phone conversation to discuss?

Here are a few thoughts I wanted to share. I welcome yours as well.

I know you want to make sure you can continue to use your brand uninterrupted, and your focus appears to be on counseling and tutoring students. I have raised investor funding around my brand (our first school just opened last week), and it is important to me to be able to continue to use it in relation to schools.

Seems like there should be a way to accomplish both goals and coexist?

Maybe by type of use (schools vs consulting)? Maybe by geography? Or both?

I would also be happy to reimburse you for what you have spent so far in fees, and contribute what I would be saving in fees going forward. I think we would both like to put that funding toward better uses for the people we are here to serve. I worry sometimes that attorneys aren't always motivated for a quick resolution, when resolution could be found more directly with a simple

conversation.

If you have plans for New York City, I am also open to helping with those plans, and could provide cross-links on our website, etc. I do not see us as competition and, in fact, I very much admire your work and feel aligned with the messages you promote.

So, in the spirit of a fellow educator and as someone who, I believe, shares passions very similar to your own, I felt that I should reach out and see if you would like to discuss the brand issue. I suspect that once you and I understand the other's intent, we will find straightforward ways to make it work on both sides.

Please let me know if you are interested in having that discussion.

With kind regards,

Jennifer Jones

Jennifer Jones
Founder
Green Ivy Schools

212.627.0129
www.greenivyschools.com
www.bmpreschool.com

Begin forwarded message:

From: Colleen O'Kane
Subject: Tutoring
Date: September 2, 2013 9:39:12 PM EDT
To: "info@greenivy.com" <info@greenivy.com>

REDACTED

Hello,

I would like information on your fees and availability for this school year. Also, how do you match a child with a tutor? I have two 8th grade boys who particularly need tutoring in math and how to study for tests. They are in accelerated math at Blach but while they seem to understand the work, rarely get higher than a B on the tests and often get C's even though they say the tests are not hard.

I have read your book and a friend's son goes there for tutoring.

Thank you!

Colleen

Sent from my iPhone



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X	
Green Ivy Educational Consulting, LLC,	:
	: Opposition No. 91211873
Opposer,	:
	: Serial Nos.: 85775379, 85775380
v.	: and 85775382
Green Ivy Holdings LLC,	:
	: Marks: GREEN IVY, GREEN
	: IVY SCHOOLS and GREEN
Applicant.	: IVY LEARNING
-----X	

**DECLARATION OF JENNIFER PHILBRICK McARDLE IN SUPPORT OF
OPPOSER'S MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

JENNIFER PHILBRICK McARDLE, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like may jeopardize the validity of this document, declares that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true:

1. I am an associate with the law firm of Satterlee Stephens Burke & Burke LLP, counsel for opposer, Green Ivy Educational Consulting, LLC ("GIEC" or "Opposer"). I submit this declaration in support of GIEC's motion for sanctions and for summary judgment.

2. GIEC filed a trademark/service mark application for the mark GREEN IVY (the "Mark") on April 25, 2013 (Serial No. 85915217). **A true and correct copy of that application is attached here as Exhibit A.**

3. Applicant Green Ivy Holdings ("GIH" or "Applicant") had filed applications to register the marks GREEN IVY, GREEN IVY SCHOOLS, and GREEN IVY LEARNING on November 9, 2012 (the "Applications"). **True and correct copies of the Applications are attached here as Exhibits B through D.**

4. GIEC instituted this action on August 5, 2013 by filing a Notice of Opposition.

5. As set out in previous submissions by GIEC to the Trademark Trial and Appeal Board (the “Board”): during the initial conference between the parties, Applicant acknowledged that it was aware of GIEC and its use of the mark GREEN IVY in, at a minimum, California. Applicant later acknowledged that it became aware of GIEC and GIEC’s use of the mark GREEN IVY soon after an article was published regarding Applicant in the New York Post on March 27, 2013. Jones Tr. 132:12-133:18. Though Applicant was advised that GIEC has in fact used the mark GREEN IVY around the country and has a national reputation, it persisted with the Applications.

6. Following the initial conference between the parties, GIEC voluntarily provided documents evidencing its use of the Mark without service of any discovery demands, expecting similar voluntary production of documents by Applicant based on its representation that it would provide such documents. These documents were never forthcoming.

7. Early efforts to settle the opposition proved unavailing, and Applicant engaged in a pattern of efforts to delay proceedings and avoid providing the disclosure requested by GIEC, which was ultimately compelled by the Board. Nonetheless, Applicant’s pattern of avoiding disclosure persisted.

8. As set out in previous submissions by GIEC to the Board: on November 13, 2013 – the deadline for serving initial disclosures – Applicant contacted GIEC’s counsel Mark Lerner and expressed a willingness to meet to discuss settlement. During a phone call on that day, Applicant requested an adjournment of the deadline to serve initial disclosures. GIEC refused given the lack of meaningful discussions to date, but expressed a willingness to meet to discuss settlement. On or about November 14, 2013, GIEC proposed a settlement meeting the following week. Applicant never responded.

9. On November 13, 2013 following service of its Initial Disclosures, GIEC served its Request for Production of Documents (“Doc. Req.”) and Request for Admissions and First Set of Interrogatories (“Interrog. Req.”) on Applicant, **true and correct copies of which are**

attached here as Exhibit E and Exhibit F, respectively.

10. GIEC also served Notices of Deposition scheduling depositions for January 8, 9 and 17, 2014.

11. Applicant never contacted GIEC while the requests were pending and never advised it that it would not meet the December 18, 2013 deadline for responding to written discovery.

12. Nevertheless, Applicant did not serve any responses to GIEC's written discovery requests by the December 18, 2013 deadline.

13. As set out in previous submissions by GIEC to the Board: on December 23, 2013, counsel for GIEC Mark Lerner contacted counsel for Applicant to seek information on why there had been no production and whether and when it could expect responses to be provided. Counsel for Applicant offered no excuse or justification for the failure to respond. Rather, counsel advised only that Applicant was aware documents and interrogatory responses were due and that he needed to speak to his client. He did not provide any specific information about when he might speak to his client or when he anticipated being in a position to respond to the discovery requests. Counsel for Applicant also advised that he was aware of the depositions scheduled for January 2014 based on the notices served by GIEC, but did not otherwise comment. Counsel for GIEC made it clear that GIEC would like to maintain the deposition schedule, but that lack of timely service of responsive documents may make it difficult to do so.

14. Given Applicant's unresponsiveness and failure to comply with its discovery obligations, GIEC made a motion to compel on December 24, 2013, resulting in a temporary stay of the proceeding.

15. Applicant did not oppose or otherwise respond to GIEC's motion.

16. The Board granted GIEC's motion on February 20, 2014 (the "Order"). **A true and correct copy of the Order is attached here as Exhibit G.**

17. In the Order, the Board compelled GIH to "serve no later than THIRTY DAYS from [February 20, 2014] its full and complete responses, without objection, to opposer's request

for the production of documents and respond to opposer's first set of interrogatories." Order 1 (emphasis added). The Order also made clear that "[i]n the event applicant fails to respond as ordered herein, the Board may entertain a motion for sanctions, including the entry of judgment pursuant to Trademark Rule 2.120(g), 37 CFR Section 2.120(g)." Id.

18. Anticipating that it would be at long last receiving responses to its discovery requests, GIEC reissued its deposition notices on March 11, 2014 for dates in early April.

19. On March 24, 2014, two days after the deadline set by the Board, Applicant provided its responses to GIEC's written discovery requests, including Applicant's Response to First Request for Production ("Document Responses") and Applicant's Response to First Request for Admissions and Unverified Responses to Opposer's First Interrogatories ("Interrogatory Responses" and together with the Doc. Resp., the "Responses"). **True and correct copies of these responses are attached here as Exhibit H and Exhibit I, respectively.**

20. On March 28, 2014, Applicant made an electronic production of responsive documents. The production included a total of twenty-one (21) documents and three links to websites referencing GIH.

21. Applicant's responses to interrogatories were signed by Applicant's counsel, not by an officer or agent of GIH, and were unverified. They remain so to this day. Indeed the Interrogatory Responses indicate that, while GIH's founder Jennifer Jones was not consulted in forming the responses, an individual by the name of Jonathan Sanchez-Jaimes was involved, but he failed to provide any verification. Interrog. Resp. ¶ 32. Even more remarkable, especially considering that Jones later characterized Mr. Sanchez-Jaimes as her "partner in the organization," not a single document bearing Mr. Sanchez-Jaimes' name has ever been produced by GIH. See Ex. J, discussed infra, at 11:20-22.

22. Applicant also refused to answer interrogatory four, which requested that Applicant "[i]dentify and describe any investors in GIH," instead interposing a relevance objection. To date, Applicant has not produced any documentation or provided testimony sufficient to provide the information requested in this interrogatory (as discussed below in

paragraph 36). In addition, neither the Document Responses nor the Interrogatory Responses included GIEC's requests, instead stating GIH's responses without any context.

23. As set out in greater detail below, in the responses to GIEC's document requests, GIH indicated in some cases that there were no responsive documents available (by stating "None" in its response to that request), and in other cases that "[a]ll responsive documents are available for inspection and copying at offices of undersigned counsel." See generally Doc. Resp. By email dated March 31, 2014, counsel for GIH confirmed that all documents that it intended to produce had in fact been delivered to GIEC electronically. Yet, in a number of responses where GIH indicated it would make documents available, no responsive documents were provided. See supra paragraphs 36 to 44.

24. On or about April 7, 2014, counsel for Applicant communicated with the undersigned counsel by phone and email to state that his client could not be made available on the dates noticed in the March 11, 2014 deposition notices.

25. Ultimately, GIEC agreed to limit its request for discovery testimony to Applicant's founder, Jennifer Jones, and to conduct that deposition on April 22, 2014.

26. Upon agreement to extend the discovery deadline solely for purposes of conducting limited depositions through that date, GIEC took the deposition of Jennifer Jones on April 22, 2014. **A true and correct copy of the transcript of that deposition is attached hereto as Exhibit J ("Jones Dep. Tr.")**.

27. At the deposition of Jennifer Jones, Jones testified that her search for responsive documents had been limited to an undefined "time frame." See, e.g., Jones Dep. Tr. 50:12-15 ("I looked at every e-mail within the time frame to see when we first started telling people Green Ivy, we're sharing the name Green Ivy"); id. at 91:7-9 (in response to whether she had given specific emails including the GREEN IVY mark to counsel, Jones responded "I didn't because it didn't fall within the time frame of material that I was asked for").

28. However she could not recall what "time frame" was applied. Id. at 50:22-25 ("Q. When you say you looked back through the e-mails for a given time frame, do you recall what

time frame that was? A. I don't....").

29. It appears based on the record that GIH has only been using the Marks Under Application since at the earliest the fall of 2013. There was no time limitation included with GIEC's document requests.

30. Jones also testified to several categories of documents requested by GIEC that had not been produced, despite the Court's order that Applicant respond to all requests without objection. For example, Jones testified that she had not collected or provided Applicant's financial records, and other marketing and advertising materials. Counsel for GIEC again reiterated its demand for this information at the deposition and counsel for Applicant represented that he would work with his client to ensure that all responsive documents were produced. These categories of documents are discussed below at paragraphs 36 through 44.

31. On April 29, 2014, counsel for GIEC contacted Applicant's counsel, Daniel Barsky, asking for an update on the status of the additional document production and settlement discussions pursued following the Jones deposition. Mr. Barsky responded the next day indicating that GIH was looking for additional documents, and that he did not have an update on settlement discussions.

32. On May 5, 2014, I have been informed that counsel for GIEC Mark Lerner unsuccessfully attempted to contact Mr. Barsky by phone and left a voice mail message.

33. After receiving no response to the voicemail left for Mr. Barsky, on May 7, 2014 counsel for GIEC contacted him by email requesting an update on the status of document production.

34. GIH did not provide any update as to when GIEC could expect production of documents prior to May 22, 2014, when it made one additional production of four (4) documents, two (2) of which appeared to be duplicates of documents already produced to GIEC. Once again, GIH made no effort to provide any justification for this minimal production, or any of the deficiencies identified at the Jones deposition, nor any subsequent failure to remedy these deficiencies.

35. The categories of documents and information for which, based on the testimony of Jennifer Jones, GIEC believes there to be responsive information that has not yet been disclosed to GIEC include the following:

36. Information Regarding Applicant's Investors.

- a. GIEC requested (and the Board ordered) that Applicant produce documents sufficient to show any investors in GIH. Doc. Req. ¶ 32. Applicant represented in the Responses that it had produced all responsive documents, but no such documents were included in Applicant's initial production. Doc. Resp. ¶ 32. GIH objected to GIEC's interrogatory requesting a list of any such investors. Interrog. Resp. ¶ 4.
- b. At her deposition, Jones agreed that Applicant's schools have investors, and that she had represented in an email to GIEC founder Ana Homayoun that Jones had "raised investor funding around [the Green Ivy] brand." Jones Dep. Tr. 17:11-20:20, 154:21-155:9. However Jones – the founder and managing member of GIH – purports not to know who the investors are (or even how many investors there are). Id.
- c. To date, no documents or other information have been provided to GIEC regarding Applicant's investors.

37. Applicant's Financial Records.

- a. GIEC requested (and the Board ordered) that Applicant produce "documents sufficient to show sales... of the goods or services under each of the Marks in each state or territory of the United States since the Marks have been in use." Doc. Req. ¶ 16. Applicant represented in the Responses that it had produced all responsive documents, Doc. Resp. ¶ 16, but no such documents were produced. Applicant also represented in response to GIEC's request for information regarding the individual responsible for bookkeeping and accounting that there is no such individual. Interrog. Resp. ¶ 20.

- b. GIEC also requested (and the Board ordered) that, if Applicant maintains the marks are currently in use, it identify “the approximate dollar amount of Applicant’s annual sales or number of users of the services offered under the Marks....” Interrog. ¶ 9(c). Applicant represented in the Responses that, though it stated that the marks were used in commerce on or before Nov. 28, 2012 and the interrogatory responses were submitted more than a year later on March 24, 2014, there are no annual figures. Interrog. Resp. ¶ 9.
- c. Finally, GIEC requested (and the Board ordered) that Applicant set forth its “annual expenditures, if any, for advertising and promoting goods and services offered under the Marks.” Interrog. ¶ 17. Applicant similarly stated in response to this request that GIH has no annual figures. Interrog. Resp. ¶ 17.
- d. No documents were produced in connection with any of these requests in Applicant’s March 28, 2014 production.
- e. At her deposition, Jones testified that she did not know the annual revenue of the one school opened by Applicant, GIH, to date (or of any of the other services offered by GIH) but that those records are maintained by GIH. Jones Dep. Tr. 140:5-14. Though she testified that she had no knowledge of accounting records, she stated (directly contradicting GIH’s interrogatory response) that all GIH accounting and bookkeeping records are handled by an individual named Barb Ristau, who is Applicant’s financial director. Id. at 63:1-2, 77:24-78:20, 140:5-14.
- f. Jones also testified that GIH “keep[s] records of how much GIH spends on advertisements per year,” but that those documents had not been collected or produced. Id. at 77:24-78:20.
- g. To date, no financial documentation has been produced by Applicant.

38. Applicant's Advertisements.

- a. GIEC requested (and the Board ordered) that Applicant produce, inter alia, copies of all advertising and promotional materials prepared for use or possible use by GIH in connection with its goods or services offered or intended to be offered under the Marks Under Application, Doc. Req. ¶ 21, and documents sufficient to identify all publications and broadcast media in which GIH has advertised, is advertising or plans to advertise any of its products or services under the Marks Under Application, Doc. Req. ¶ 22. Applicant represented in the Responses that it had produced all responsive documents. Doc. Resp. ¶¶ 21, 22.
- b. GIEC also requested (and the Board ordered) that Applicant (1) “[s]tate the manner in which the Marks were used, (e.g., ... advertisements),” (2) “[i]dentify the media, if any, through which GIH has advertised or promoted its goods or services or intends to” do so, and (3) “[l]ist all items of publicity material not already identified... in which GIH has advertised or promoted goods or services bearing the Marks.” Interrog. Req. ¶¶ 9(d), 18, 19. Applicant responded only that “[t]he Marks are used on websites, publicity materials, and in general media publications,” Interrog. Resp. ¶ 9, and that “Green Ivy has used the Internet and traditional media publications,” and that there are no such “publicity material[s],” id. at ¶¶ 13, 18, 19.
- c. Jones testified that Applicant began putting the GREEN IVY mark on advertisements “between September and December of 2013” but that she had not collected or produced advertisements from that time period. Jones Dep. Tr. 89:22-90:10. Counsel for GIH represented on the record that he understood that “the request was for everything that had Green Ivy on it. I was unaware that they used it from September to December. So I’ll get those and forward those to you.” Id. at 90:14-18.

- d. GIH has since produced only two additional documents: a “postcard” for Battery Park Montessori that is incomplete (it does not include the back portion of the postcard) and a “packet” for the Pine Street School. Both documents are undated.

39. Outside Public Relations Firm.

- a. GIEC requested (and the Board ordered) that Applicant “identify each... outside agent or agency retained by Applicant who has been or now is responsible for... marketing, advertising and promotion... with respect to any goods or services offered for sale or sold under the Marks or any variation thereof.” Interrog. ¶ 20 (emphasis added). Applicant represented in the Responses that presently, there were none, and provided no further information. Interrog. Resp. ¶ 20.
- b. As noted above, GIEC also made a variety of requests for documents in connection with GIH’s advertising and promotional activities. GIEC’s other requests included a range of categories that would also include marketing plans or recommendations. See also Doc. Req. ¶ 20 (requesting “[a]ll documents regarding the types and classes of consumers to whom Applicant markets or intends to market its goods and services identified by the Marks”); id. at ¶ 17 (requesting documents sufficient to show markets and channels of trade in which Applicant markets or intends to market its services); id. at ¶ 14 (“[a]ll documents referring or relating to, or comprising, any plan Applicant has to expand the type of goods or services it offers using the Marks”); id. at ¶ 11 (“[a]ll documents and things evidencing Applicant’s purported intent to use the Marks in commerce in connection with Applicant’s Services, including, but not limited to any specific business plans, contracts or correspondence”); id. at ¶ 4 (“[a]ll documents relating to studies, focus groups, customer evaluations, research, and/or surveys relating to any mark incorporating the

term ‘green ivy,’ or variation thereof...”). Applicant represented in its responses to each of these requests that it had either produced all responsive documents or that there were none. See, e.g., Doc. Resp. ¶¶ 4, 11, 14, 17, 20.

- c. Jones then testified, however, that public relations firm Cooper Katz had provided GIH with “pretty substantial” written advice (“there’s pages of it”), including “advice specific to Green Ivy... they guide us on what makes a school a Green Ivy school. Because the intent is to develop multiple schools with that brand. ... They guide us on how to define the Green Ivy brand of schools that we’re developing. In the minds of parents and anyone else who might have an interest in us.” Jones Dep. Tr. 74:11-76:1.
- d. To date, no documentation relating to work done for GIH by Cooper Katz has been provided to GIEC.

40. Applicant’s Domain Names.

- a. GIEC requested (and the Board ordered) that Applicant produce “documents sufficient to show the launch date, URL address and closure date (if any) for any and all websites launched or maintained by Applicant or at Applicant’s direction that have marketed or sold any goods bearing the Marks.” Doc. Req. ¶ 18; see also Interrog. ¶ 15 (seeking identification of same dates). Applicant identified one website in the Responses and represented that it had produced all responsive documents, but no such documents were included in Applicant’s initial production. Doc. Resp. ¶ 18; see also Interrog. Resp. ¶ 15 (stating that GIH “does not remember the exact launch date of the website <http://www.greenivyschools.com>.”).
- b. Jones testified that there have been at least three websites in use by Applicant in connection with its goods or services under the Marks Under Application, and that she had “submitted everything I have on” when the domain names GreenIvySchools.com and GreenIvy.com were acquired by GIH. Jones Dep.

Tr. 85:24-86:3.

- c. To date, however, the only disclosure provided even mentioning a GIH website is the listing of www.greenivyschools.com in a response to an interrogatory, see Interrog. Resp. ¶ 15 (omitting mention of the other two websites testified to by Jennifer Jones), and no documents regarding the websites registered by GIH have been produced to GIEC.

41. Emails Sent to the GIH Email List.

- a. As noted above, GIEC requested (and the Board ordered) that Applicant produce all documents used to advertise or promote GIH's services under the Marks Under Application.
- b. Jones testified that emails sent to the GIH mailing list for these purposes have contained the GREEN IVY mark, but that she did not provide those documents to counsel "because it didn't fall within the time frame of material that [she] was asked for." Id. at 90:25-91:18. At the deposition, counsel for GIH acknowledged that these documents should have been included in GIH's production.
- c. No emails to the GIH email list have ever been produced to GIEC.

42. Open House Materials.

- a. As noted above, GIEC requested (and the Board ordered) that Applicant produce all documents used to advertise or promote GIH's services under the Marks Under Application.
- b. Jones testified that she had not reviewed the written materials distributed at the one open house GIH has held to date in order to assess whether the Marks Under Application had been used, but that she understood those documents to have used the mark GREEN IVY. Id. at 93:9-24. After GIEC again requested these documents on the record, Applicant's counsel made clear that he would work with his client to produce all responsive documents, without a time

limitation applied. Id. at 93:25-94:5.

- c. Since the Jones deposition, one additional document has been produced that could potentially be responsive to this request (a PDF file titled “Parent Info Session”). However this document is undated and appears to be a duplicate of a document already produced by GIH with the same file name. Moreover, Jones testified that the written materials used at the GIH “information sessions” are distinct from that used at the “open house.” Id. at 66:21-67:2 (distinguishing between information sessions held weekly from November through March and “open house events both for the school and for enrichment programming”), 92:21-93:14 (distinguishing between written materials at information sessions and at open house).

43. Application and Sign-Up Materials.

- a. GIEC requested (and the Board ordered) that Applicant produce “[a]ll documents regarding the types and classes of consumers to whom Applicant markets or intends to market its goods and services identified by the Marks.” Doc. Req. ¶ 20. Applicant represented in the Responses that it had produced all responsive documents. Doc. Resp. ¶ 20.
- b. Yet Jones testified that she had not provided “application forms and other documents relevant to the sign-up process to [her] counsel.” Jones Dep. Tr. 99:5-9. Counsel for GIEC again requested this material on the record. Id. at 99:10-12.
- c. To date, no such materials have been produced by Applicant. Moreover, though one of GIH’s schools has allegedly opened, not a single document has been provided related use of the Marks in the school setting.

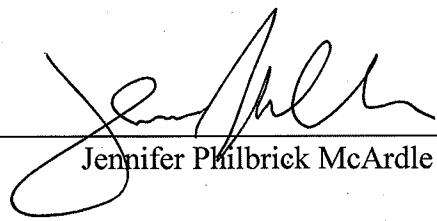
44. Name Selection Spreadsheets.

- a. GIH requested (and the Board ordered) that GIH produce “all documents referring or relating to the selection or consideration of the Marks” and “all

documents received by Applicant from any attorney or any other person with respect to the availability or unavailability of the Marks, not including advice of an attorney.” Doc. Req. ¶¶ 1, 3. GIH represented that it had either done so, or that there are no such documents. Doc. Resp. ¶¶ 1, 3. However emails produced by Applicant indicate that there were multiple versions of a spreadsheet used to select the “Green Ivy” name (all with different file names indicating subsequent versions), and only one spreadsheet version was produced.

- b. Jones agreed at her deposition that the various versions of the spreadsheet used in selecting the name Green Ivy contained modifications, and that the other versions had not been produced. Jones Dep. Tr. 115:7-121:23. She further speculated that she may no longer have access to the other versions that were stored on a cloud computing service called HiTask. Id. Counsel for GIEC requested that Applicant produce the additional versions, and Applicant’s counsel represented that GIH would look to see if those versions were available. Id.
- c. Applicant has made no further production of these documents, however, and has provided no further information to GIEC as to this material’s accessibility.

Dated: New York, New York
June 18, 2014



Jennifer Philbrick McArdle

EXHIBIT A

Trademark/Service Mark Application, Principal Register

Serial Number: 85915217

Filing Date: 04/25/2013

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	85915217
MARK INFORMATION	
*MARK	GREEN IVY
STANDARD CHARACTERS	YES
USPTO-GENERATED IMAGE	YES
LITERAL ELEMENT	GREEN IVY
MARK STATEMENT	The mark consists of standard characters, without claim to any particular font, style, size, or color.
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Green Ivy Educational Consulting, LLC
*STREET	302 Main Street, Suite 201
*CITY	Los Altos
*STATE (Required for U.S. applicants)	California
*COUNTRY	United States
*ZIP/POSTAL CODE (Required for U.S. applicants only)	94022
WEBSITE ADDRESS	www.greenivyed.com

LEGAL ENTITY INFORMATION	
TYPE	limited liability company
STATE/COUNTRY WHERE LEGALLY ORGANIZED	California
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	041
* IDENTIFICATION	Career and educational counseling, namely, providing advice concerning the college application process and education options; Consultation for K-12 educational systems in the field of student organization, student time management, and education technology options; Education services, namely, providing K-12 classroom instruction in the field of organization and time management; Educational services, namely, conducting workshops and courses for parents, educators and students in the fields of education, time management, college and post graduate program admission and educational assessment test preparation and distribution of training materials in connection therewith; Educational services, namely, developing curriculum for educators
FILING BASIS	SECTION 1(a)
FIRST USE ANYWHERE DATE	At least as early as 03/30/2004
FIRST USE IN COMMERCE DATE	At least as early as 03/30/2004
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPE0-74202154109-163141977_ _GREEN IVY_specimen_of_use_.pdf
CONVERTED PDF FILE(S) (6 pages)	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0003.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0004.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0005.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0006.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0007.JPG
	\\TICRS\EXPORT16\IMAGEOUT16\859\152\85915217\xml1\APP0008.JPG
SPECIMEN DESCRIPTION	printouts of Applicant's website
ATTORNEY INFORMATION	

NAME	Brian M. Davis
FIRM NAME	VLP Law Group LLP
STREET	5960 Fairview Rd; Suite 400
CITY	Charlotte
STATE	North Carolina
COUNTRY	United States
ZIP/POSTAL CODE	28210
PHONE	704-245-6515
EMAIL ADDRESS	bdavis@vlplawgroup.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
OTHER APPOINTED ATTORNEY	Scott Austin
CORRESPONDENCE INFORMATION	
NAME	Brian M. Davis
FIRM NAME	VLP Law Group LLP
STREET	5960 Fairview Rd; Suite 400
CITY	Charlotte
STATE	North Carolina
COUNTRY	United States
ZIP/POSTAL CODE	28210
PHONE	704-245-6515
EMAIL ADDRESS	bdavis@vlplawgroup.com;trademarks@vlplawgroup.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325

*TOTAL FEE PAID	325
SIGNATURE INFORMATION	
SIGNATURE	/Anahita Homayoun/
SIGNATORY'S NAME	Anahita Homayoun
SIGNATORY'S POSITION	Director
DATE SIGNED	04/25/2013

Trademark/Service Mark Application, Principal Register

Serial Number: 85915217

Filing Date: 04/25/2013

To the Commissioner for Trademarks:

MARK: GREEN IVY (Standard Characters, see [mark](#))

The literal element of the mark consists of GREEN IVY.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

The applicant, Green Ivy Educational Consulting, LLC, a limited liability company legally organized under the laws of California, having an address of

302 Main Street, Suite 201
Los Altos, California 94022
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 041: Career and educational counseling, namely, providing advice concerning the college application process and education options; Consultation for K-12 educational systems in the field of student organization, student time management, and education technology options; Education services, namely, providing K-12 classroom instruction in the field of organization and time management; Educational services, namely, conducting workshops and courses for parents, educators and students in the fields of education, time management, college and post graduate program admission and educational assessment test preparation and distribution of training materials in connection therewith; Educational services, namely, developing curriculum for educators

In International Class 041, the mark was first used by the applicant or the applicant's related company or licensee or predecessor in interest at least as early as 03/30/2004, and first used in commerce at least as early as 03/30/2004, and is now in use in such commerce. The applicant is submitting one(or more) specimen(s) showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services, consisting of a(n) printouts of Applicant's website.

Original PDF file:

[SPE0-74202154109-163141977 . GREEN IVY specimen of use .pdf](#)

Converted PDF file(s) (6 pages)

[Specimen File1](#)

[Specimen File2](#)

[Specimen File3](#)

[Specimen File4](#)

[Specimen File5](#)

[Specimen File6](#)

For informational purposes only, applicant's website address is: www.greenivyed.com

The applicant's current Attorney Information:

Brian M. Davis and Scott Austin of VLP Law Group LLP
5960 Fairview Rd; Suite 400
Charlotte, North Carolina 28210
United States

The applicant's current Correspondence Information:

Brian M. Davis
VLP Law Group LLP
5960 Fairview Rd; Suite 400
Charlotte, North Carolina 28210
704-245-6515(phone)
bdavis@vlplawgroup.com; trademarks@vlplawgroup.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Anahita Homayoun/ Date: 04/25/2013

Signatory's Name: Anahita Homayoun

Signatory's Position: Director

RAM Sale Number: 85915217

RAM Accounting Date: 04/26/2013

Serial Number: 85915217

Internet Transmission Date: Thu Apr 25 19:25:41 EDT 2013

TEAS Stamp: USPTO/BAS-74.202.154.109-201304251925413

54225-85915217-50056df50a7e91a27983657e1

fffce936481945aa44b0d1712db8d7ebe7be289f
-CC-5745-20130425191712665544

GREEN IVY



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Green Ivy in the Schools

Green Ivy has consulted with schools both in the United States and abroad about how to effectively incorporate organization, time-management and overall executive functioning skills into the classroom. We work directly with schools to bring organizational and time-management strategies into the classroom. We also examine the **different technological options** available to schools, and the benefits and challenges of adapting different technologies from a student development and learning perspective.

This streamlined system benefits administrators, teachers, students and parents, and our consultations have benefited tens of thousands of administrators, teachers, students and parents throughout the world. Green Ivy in the Schools consists of several key components – Faculty In-Service Presentations, Student Presentations and Parent Education Nights. Schools can elect to bring us in for one of more of the consulting options, or have us perform a full school consult which includes all three presentations as well as an optional individualized brainstorming session with administrators and school counselors.

Green Ivy in the Schools options include:

Faculty In-Service Presentations. Our Faculty In-Service presentations are interactive opportunities for faculty to collaborate and come up with solutions to help students implement organization and time-management skills. The faculty will leave the presentation with practical tools that they can almost immediately implement in their classroom and in their own lives. We work with the staff and teachers to show them useful tips and strategies that can be used school wide, so there is consistency in the organization of binders and assignments for students. This streamlined consistency allows students to better understand expectations and enables teachers to focus more of their time on learning and development.

Student Presentations (for grades 6-12 and university students). The student presentation is motivating and inspiring and encourages students to use organization and time-management strategies to find their own personal pathway to academic and personal success. Our fun and interactive student presentations motivate students with a combination of humor and real-life success stories. We work with the schools to tailor a presentation that fits their students' organizational challenges and offers strategies for personal and academic success. When combined with the Faculty In-Service, teachers can use the student presentation as a jumping off point to introduce the strategies in the classroom. A short Q & A follows each student presentation.

Parent Education Opportunities. Our Parent Education Presentations help parents understand what is different for teenagers today, and what they can do to help their children find success both in and out of the classroom. We tailor the talk to cover specific topics that are of interest to the parent audience, and also discuss the reasons why students struggle with organization and time



management and offer practical and accessible advice on what parents can do at home to encourage and motivate their children.

Sample Speaking Topics:

- Why Students Struggle With Organization and Time Management and What Parents Can do to Help
- Understanding Teenage Disorganization: Finding Solutions and Creating Opportunities for Success
- Student Presentation: How to Create the Life of Your Dreams
- How to Create the College Experience of your Dreams: Using Organization and Time Management Techniques to Decrease Stress and Increase Opportunity
- Faculty Presentation: Promoting Motivation, Organization and Time Management in the Classroom

To find out more information and schedule a presentation or full school consult, please contact us at schools@greenivied.com or 650.472.0617.



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College Counseling

At Green Ivy, we know how challenging the college application process can be – for both students and parents! Our goal is to empower students to become proactive college applicants who are successful in finding the right post-secondary school that fits their strengths, dreams and desires. We offer several options to help students manage their time and organize the application process so that applications are successfully completed without unnecessary stress and anxiety.

To sign up for College Counseling, [Contact Us](#).

Our Complete College Counseling Program includes:

- Meeting initially with parent(s) and student
- Reviewing student's transcripts, relevant testing materials, interests and personality traits to create a list of colleges that match the desires and educational interests of the student
- Designing an individualized time-line and checklist for the college application process
- Creating an organizational system that provides each student with a clear-cut method of managing time and tasks efficiently
- Helping students brainstorm for college essays and organize thoughts effectively
- Two essay writing workshops
- Assisting in preparation for college admissions interviews
- Reviewing completed applications before submission
- Assisting in making the final decision after acceptances
- Monthly newsletter to keep parents and students up-to-date on upcoming deadlines and tips

Colleges that Students Have Been Accepted To:

Arizona State University

Boston College

Boston University

Brown University

Cal Poly – San Luis Obispo

Chapman University

Claremont College

Duke University

Emory University

George Washington University

Gonzaga University

Sonoma State

Southern Methodist University

St. Mary's College

Stanford

Syracuse University

Tulane University

UC San Diego

UC-Berkeley

UCLA

University of Arizona

University of Colorado-Boulder



Hamilton College
Loyola Marymount University
Northeastern University
Northwestern
Notre Dame
Pepperdine University
Princeton
Regis University
San Diego State
San Jose State
Santa Clara University
Scripps College

University of Denver
University of Michigan
University of Oregon
University of Portland
University of San Diego
University of Washington
University of Wisconsin
USC
Villanova University
Washington University – St. Louis
Whittier College



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Academic Coaching

Academic coaching combines multiple-subject tutoring with organizational and time-management techniques that enable students to effectively maximize their studying time and efficiently improve their academic performance. Students meet with consultants on a weekly (or twice weekly) basis and go over any upcoming assignments, quizzes or tests. Our consultants help students organize their binders, update their planner and come up with a plan of action to complete all remaining homework and study for any upcoming tests or quizzes.

We offer tutoring in the following subjects:

English	Algebra I, II
History	Geometry
Social Studies	Trigonometry
Biology	Pre-Calculus, Calculus
Chemistry, Physics	Language Arts
Elementary Math	Spanish



To sign up for Academic Coaching, [Contact Us](#).



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SSAT, ISEE & HSPT Preparation

We also offer extensive preparation for the SSAT, ISEE, and HSPT tests. Students typically take a diagnostic test, from which an individualized schedule is created and students meet with a consultant once or twice a week for one-on-one tutoring sessions.

To sign up for SAT, ISEE, and HSPT Preparation, [Contact Us](#).



EXHIBIT B

Trademark Snap Shot Amendment & Mail Processing Stylesheet
(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	85775379	FILING DATE	11/09/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	KING, LINDA M	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	06/21/2013		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	06/20/2013		
LITERAL MARK ELEMENT	GREEN IVY		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	GREEN IVY

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Green Ivy Holdings LLC
ADDRESS	108 West 13th Street Wilmington, DE 19801
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Office administration services for schools
INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Educational services, namely, providing pre-kindergarten through 12th grade classroom instruction; educational services, namely, developing curriculum for others; providing after school educational programs for children in pre-kindergarten through 12th grade; providing live and online educational services, namely, providing classes, workshops and seminars in the field of primary education for grades pre-kindergarten through 12th grade
INTERNATIONAL CLASS	042
DESCRIPTION TEXT	Testing, analysis and evaluation of the goods and services of others for the purpose of certification, namely, software, toys, books, classroom materials and lesson plans in the fields of education and parenting

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	041	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	042	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION

NO

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/20/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
06/20/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
06/17/2013	ALIE	A	ASSIGNED TO LIE	008
06/10/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
03/12/2013	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
03/12/2013	GNRT	F	NON-FINAL ACTION E-MAILED	005
03/12/2013	CNRT	R	NON-FINAL ACTION WRITTEN	004
03/07/2013	DOCK	D	ASSIGNED TO EXAMINER	003
11/15/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
11/13/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY

Joseph R. Englander

CORRESPONDENCE ADDRESS

JOSEPH R. ENGLANDER
SHUTTS & BOWEN LLP
200 E BROWARD BLVD STE 2100
FORT LAUDERDALE, FL 33301-1972

DOMESTIC REPRESENTATIVE

NONE

GREEN IVY

EXHIBIT C

Trademark Snap Shot Amendment & Mail Processing Stylesheet
(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	85775380	FILING DATE	11/09/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	KING, LINDA M	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	06/21/2013		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	06/20/2013		
LITERAL MARK ELEMENT	GREEN IVY SCHOOLS		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	GREEN IVY SCHOOLS

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Green Ivy Holdings LLC
ADDRESS	108 West 13th Street Wilmington, DE 19801
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

GOODS AND SERVICES

INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Education services, namely, providing pre-kindergarten through 12th grade school instruction, curriculum development, education administration and operation, before and after school educational and enrichment programs, school break programs; live and online education, as well as providing, reviewing and certifying educational and parenting material including software, toys, books, classroom materials and lesson plans

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	041	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
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MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION	NO
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PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/20/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
06/20/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
06/17/2013	ALIE	A	ASSIGNED TO LIE	008
06/10/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
03/12/2013	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
03/12/2013	GNRT	F	NON-FINAL ACTION E-MAILED	005
03/12/2013	CNRT	R	NON-FINAL ACTION WRITTEN	004

03/07/2013	DOCK	D	ASSIGNED TO EXAMINER	003
11/15/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
11/13/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY	Joseph R. Englander
CORRESPONDENCE ADDRESS	JOSEPH R. ENGLANDER SHUTTS & BOWEN LLP 200 E BROWARD BLVD STE 2100 FORT LAUDERDALE, FL 33301-1972
DOMESTIC REPRESENTATIVE	NONE

GREEN IVY SCHOOLS

EXHIBIT D

Trademark Snap Shot Amendment & Mail Processing Stylesheet
(Table presents the data on Amendment & Mail Processing Complete)

OVERVIEW

SERIAL NUMBER	85775382	FILING DATE	11/09/2012
REG NUMBER	0000000	REG DATE	N/A
REGISTER	PRINCIPAL	MARK TYPE	SERVICE MARK
INTL REG #	N/A	INTL REG DATE	N/A
TM ATTORNEY	KING, LINDA M	L.O. ASSIGNED	116

PUB INFORMATION

RUN DATE	06/21/2013		
PUB DATE	N/A		
STATUS	661-RESPONSE AFTER NON-FINAL-ACTION-ENTERED		
STATUS DATE	06/20/2013		
LITERAL MARK ELEMENT	GREEN IVY LEARNING		
DATE ABANDONED	N/A	DATE CANCELLED	N/A
SECTION 2F	NO	SECTION 2F IN PART	NO
SECTION 8	NO	SECTION 8 IN PART	NO
SECTION 15	NO	REPUB 12C	N/A
RENEWAL FILED	NO	RENEWAL DATE	N/A
DATE AMEND REG	N/A		

FILING BASIS

FILED BASIS		CURRENT BASIS		AMENDED BASIS	
1 (a)	NO	1 (a)	NO	1 (a)	NO
1 (b)	YES	1 (b)	YES	1 (b)	NO
44D	NO	44D	NO	44D	NO
44E	NO	44E	NO	44E	NO
66A	NO	66A	NO		
NO BASIS	NO	NO BASIS	NO		

MARK DATA

STANDARD CHARACTER MARK	YES
LITERAL MARK ELEMENT	GREEN IVY LEARNING

MARK DRAWING CODE	4-STANDARD CHARACTER MARK
COLOR DRAWING FLAG	NO

CURRENT OWNER INFORMATION

PARTY TYPE	10-ORIGINAL APPLICANT
NAME	Green Ivy Holdings LLC
ADDRESS	108 West 13th Street Wilmington, DE 19801
ENTITY	16-LTD LIAB CO
CITIZENSHIP	Delaware

GOODS AND SERVICES

INTERNATIONAL CLASS	035
DESCRIPTION TEXT	Office administration services for schools
INTERNATIONAL CLASS	041
DESCRIPTION TEXT	Educational services, namely, providing pre-kindergarten through 12th grade classroom instruction; educational services, namely, developing curriculum for others; providing after school educational programs for children in pre-kindergarten through 12th grade; providing live and online educational services, namely, providing classes, workshops and seminars in the field of primary education for grades pre-kindergarten through 12th grade
INTERNATIONAL CLASS	042
DESCRIPTION TEXT	Testing, analysis and evaluation of the goods and services of others for the purpose of certification, namely, software, toys, books, classroom materials and lesson plans in the fields of education and parenting

GOODS AND SERVICES CLASSIFICATION

INTERNATIONAL CLASS	035	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	041	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE
INTERNATIONAL CLASS	042	FIRST USE DATE	NONE	FIRST USE IN COMMERCE DATE	NONE	CLASS STATUS	6-ACTIVE

MISCELLANEOUS INFORMATION/STATEMENTS

CHANGE IN REGISTRATION

NO

DISCLAIMER W/PREDETER TXT

"LEARNING"

PROSECUTION HISTORY

DATE	ENT CD	ENT TYPE	DESCRIPTION	ENT NUM
06/20/2013	TEME	I	TEAS/EMAIL CORRESPONDENCE ENTERED	010
06/20/2013	CRFA	I	CORRESPONDENCE RECEIVED IN LAW OFFICE	009
06/17/2013	ALIE	A	ASSIGNED TO LIE	008
06/10/2013	TROA	I	TEAS RESPONSE TO OFFICE ACTION RECEIVED	007
03/12/2013	GNRN	O	NOTIFICATION OF NON-FINAL ACTION E-MAILED	006
03/12/2013	GNRT	F	NON-FINAL ACTION E-MAILED	005
03/12/2013	CNRT	R	NON-FINAL ACTION WRITTEN	004
03/07/2013	DOCK	D	ASSIGNED TO EXAMINER	003
11/15/2012	NWOS	I	NEW APPLICATION OFFICE SUPPLIED DATA ENTERED IN TRAM	002
11/13/2012	NWAP	I	NEW APPLICATION ENTERED IN TRAM	001

CURRENT CORRESPONDENCE INFORMATION

ATTORNEY

Joseph R. Englander

CORRESPONDENCE ADDRESS

JOSEPH R. ENGLANDER
SHUTTS & BOWEN LLP
200 E BROWARD BLVD STE 2100
FORT LAUDERDALE, FL 33301-1972

DOMESTIC REPRESENTATIVE

NONE

GREEN IVY LEARNING

EXHIBIT E

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
Green Ivy Educational Consulting, LLC, :
 :
Opposer, : Opposition No. 91211873
 :
v. : Serial Nos.: 85775379, 85775380
 : and 85775382
 :
Green Ivy Holdings LLC, : Marks: GREEN IVY, GREEN
 : IVY SCHOOLS and GREEN
Applicant. : IVY LEARNING
-----X

OPPOSER'S REQUEST FOR THE PRODUCTION OF DOCUMENTS

Pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120(d)(2), Opposer, Green Ivy Educational Consulting, LLC ("Opposer") request that Green Ivy Holdings LLC ("GIH" or "Applicant"), in the manner and within the time prescribed by the Federal Rules of Civil Procedure and applicable federal regulations, produce the documents and tangible items described below at the offices of Satterlee Stephens Burke & Burke LLP, 230 Park Avenue, New York, NY 10169, or at such place as the parties shall mutually agree, and permit inspection, copying and photographing thereof at said time and place. Opposer further demands that Applicant serve a written response in accordance with Fed. R. Civ. P. 34(b) and 37 C.F.R. § 2.120(a).

This Request for Documents (the "Request") is to be regarded as continuing to the extent provided by Rule 26(e) of the Federal Rules of Civil Procedure. The Applicant is requested to provide, by way of supplementary compliance herewith, such additional documents as the Applicant, its agents, representatives or attorneys may obtain between the time documents are produced pursuant to this Request and the time of trial of this matter. Such additional documents

are to be produced at the offices of Satterlee Stephens Burke & Burke LLP, 230 Park Avenue, New York, New York 10169, promptly after receipt thereof.

DEFINITIONS

As used herein, the following terms shall have the meanings set forth below:

A. "Person" means any individual, corporation, association, organization, firm, company, partnership, joint venture, trust, estate, or other business, legal or governmental entity, whether or not possessing a separate juristic existence in its own right, or any other group collectively assembled to transact any kind of business at all.

B. The term "communication" refers to any exchange or transfer of information between two or more persons whether written, oral or any other form.

C. The term "relate to," including its various forms such as "relating to" and "related to" shall mean: consist of, refer to, reflect, concern, describe, discuss, comment on, embody, respond to, support, contradict, or be in any way logically or factually connected with the matter discussed as the context makes appropriate.

D. "Document" is used herein in its customary broad sense as defined in Fed. R. Civ. P. 34(a), and includes, without limitation, the original or any copy of any and all written, printed, typed, recorded or graphic matter, electronic files whether maintained on floppy disks, hard drives, back-up tapes, flash memory, CD-ROMs, DVD-ROMs, or zip disks, cloud storage, photographic matter, and sound reproduction by a magnetic recording, tapes, records or other devices, however produced or reproduced, as well as interoffice and intraoffice memoranda, staff reports, contracts, engagement letters, electronic mail, word processing files, computer programs, agreements, correspondence, letters, notes, charts, tabulations, data compilations, diagrams, drafts of a document, summaries, work papers, accounts, invoices, receipts, checks, check stubs,

time slips, deposit slips, ledgers, journals, balance sheets, income statements, accounts, and records or transcripts of meetings, conferences, and telephonic or other conversations of communications, which are in the possession, custody or control of Applicant (or of its employees, agents, or attorneys or of any persons acting for Applicant or on its behalf), or to which Applicant has access.

E. “You,” “Your,” “Applicant,” or “GIH” means GIH, Jennifer Jones, and any employees, agents, representatives, consultants or licensees.

F. “Opposer” or “GIEC” means Green Ivy Educational Consulting, LLC, Ana Homayoun, and any employees, agents, representatives, consultants or licensees.

G. “Marks” means the marks applied for by GIH in Application Serial Nos. 85775379, 85775380 and 85775382 and any amendments thereto, including GREEN IVY, GREEN IVY SCHOOLS and GREEN IVY LEARNING. Reference to the Marks herein means any individual Mark or combination thereof.

H. “Applications” means Application Serial Nos. 85775379, 85775380 and 85775382 and any amendments thereto. Reference to the Applications herein means any individual Application or combination thereof.

I. “Applicant’s Services” means the services as set forth in the Applications.

J. “Answer” means the Answer to the Notice of Opposition.

INSTRUCTIONS

1. These Requests, unless otherwise specifically stated, should be read to be limited to seeking documents relevant to the creation, adoption, use and promotion of the Marks in the United States.

2. If Applicant cannot produce any document or part of a document specified below because such document or part of a document is no longer in the custody, control or possession of Applicant or of its agents or attorneys or of any persons acting for Applicant or on its behalf, Applicant shall furnish for each such document or part of a document the following information.

a. A brief description of the document, including, if reasonably identifiable by Applicant:

i. the type of document;

ii. its date;

iii. its author(s);

iv. each addressee and each person who received a copy of the document;

v. a description of the contents of the document.

b. The reason Applicant cannot produce the document or part of a document.

3. If Applicant refuses to produce any document or part of a document specified below on the basis of some privilege or immunity with respect to such document, Applicant shall serve upon counsel for Opposer, within thirty (30) days of the date such document or part of a document is withheld from production on the basis of such privilege or immunity, an inventory setting forth for each document or part of a document the following information:

a. the type of document;

b. its date;

c. its author(s);

d. each addressee and each person who received a copy of the document;

e. its present location;

- f. its present custodian;
- g. the number of pages of the document;
- h. a description of the contents of the document (subject to the appropriate privilege or immunity);
- i. a statement of the basis for the claim of privilege or immunity.

DOCUMENT REQUESTS

1. All documents referring or relating to the selection or consideration of the Marks.
2. All documents referring or relating to trademark and/or service mark searches or investigations conducted by or on behalf of Applicant in connection with the Marks.
3. All documents received by Applicant from any attorney or any other person with respect to the availability or unavailability of the Marks, not including advice of an attorney.
4. All documents relating to studies, focus groups, customer evaluations, research, and/or surveys relating to any mark incorporating the term “green ivy,” or any variation thereof under consideration for Applicant’s goods and services.
5. All documents referring or relating to Applicant’s proposed adoption of the Marks.
6. All documents relating to any state or federal trademark application made by You in connection with the Marks.
7. All documents referring or relating to, or comprising any license or assignment of any trademark rights for the Marks.
8. Documents sufficient to show the goods and services on or in connection with which the Marks are used, have been used or are intended to be used.

9. If Applicant claims the Marks have been used in commerce, all documents and things evidencing Applicant's use of each of the Marks in commerce.

10. If Applicant claims the Marks have been used in commerce, all documents and things establishing Applicant's claimed date of first use of each of the Marks.

11. All documents and things evidencing Applicant's purported intent to use the Marks in commerce in connection with Applicant's Services, including, but not limited to any specific business plans, contracts or correspondence.

12. Specimens of all types of goods produced, marketed or sold by Applicant bearing the Marks.

13. All documents regarding any seminars or other live or online presentations developed or attended by Applicant using the Marks.

14. All documents referring or relating to, or comprising, any plan Applicant has to expand the type of goods or services it offers using the Marks.

15. Documents sufficient to show the prices for Applicant's goods and services marketed under the Marks.

16. Documents sufficient to show sales by Applicant or any licensees, broken down by month, of the goods or services under each of the Marks in each state or territory of the United States since the Marks have been in use.

17. Documents sufficient to show the markets and channels of trade in the United States through which Applicant markets, distributes or otherwise sells, or intends to market, distribute or otherwise sell, products or services using the Marks.

18. Documents sufficient to show the launch date, URL address and closure date (if any) for any and all websites launched or maintained by Applicant or at Applicant's direction that have marketed or sold any goods bearing the Marks.

19. Documents sufficient to show the number of unique visitors to the website at the URL address www.greenivyschools.com, or any other URL address identified in Interrogatory 15 on a monthly basis since the site's creation.

20. All documents regarding the types and classes of consumers to whom Applicant markets or intends to market its goods and services identified by the Marks.

21. Copies of all advertising, promotional materials and packaging prepared for use or possible use in connection with Applicant's goods or services offered or intended to be offered under the Marks.

22. Documents sufficient to identify all the publications and broadcast media in which Applicant has advertised, is advertising, or has planned to advertise any of its products or services offered or to be offered under the Marks.

23. Copies of all television commercials, radio scripts, podcasts and other media advertising not previously requested in which any of the Marks or any variation thereof appears or is mentioned.

24. Copies of all articles, broadcasts, blog posts, or other media coverage not solicited, paid for, or authored by Applicant, that, to Applicant's knowledge, features, lists or is related to the Marks or any product bearing any of the Marks.

25. To the extent not already produced in connection with the foregoing, copies of all publications that, to Applicant's knowledge, featured, listed, or provided press coverage of goods bearing the Marks from the time each Mark was created through the present.

26. All documents which refer or relate to any complaints related in any way to Applicant's products or services bearing the Marks.

27. Copies of all coexistence agreements or settlement agreements related to the Marks, including any schedules or amendments to said coexistence or settlement agreements and communications and documents related to all said agreements.

28. Any and all evidence of actual confusion between Applicant's use of the Marks and Opposer's GREEN IVY mark, Opposer or Ana Homayoun, including but not limited to emails or other electronic communications received through greenivy.com and greenivyschools.com.

29. All documents referring or relating to or comprising any communication, oral or written, received by Applicant from any Person which suggests, implies, or infers that Applicant or Jennifer Jones may be connected or associated with Ana Homayoun, Ms. Homayoun's books or other publications or GIEC, or which includes an inquiry as to whether there is or may be such a connection or association, including but not limited to emails or other electronic communications received through greenivy.com and greenivyschools.com.

30. All documents referring or relating to Ana Homayoun, GIEC or GIEC's use of the GREEN IVY mark.

31. Documents sufficient to show the ownership and corporate structure of GIH.

32. Documents sufficient to show any investors in GIH.

33. All documents, other than those produced in response to any of the foregoing requests, upon which Applicant intends to rely at trial.

CERTIFICATE OF SERVICE
(37 C.F.R. § 2.119)

I declare under penalty of perjury that on the 13th day of November, 2013, OPPOSER'S REQUEST FOR PRODUCTION OF DOCUMENTS was served on applicant, GREEN IVY HOLDINGS LLC, by delivering a true and correct copy, by First Class Mail, postage prepaid, to:

Joseph R. Englander, Esq.
Shutts & Bowen LLP
200 E. Broward Blvd., Ste. 2100
Fort Lauderdale, Florida 33301-1972



Jennifer Philbrick McArdle

EXHIBIT F

-----X	
Green Ivy Educational Consulting, LLC,	:
	:
Opposer,	:
	:
v.	:
	:
Green Ivy Holdings LLC,	:
	:
Applicant.	:
-----X	

Pursuant to Rules 33 and 36 of the Federal Rules of Civil Procedure and 37 C.F.R.

§ 2.120, Green Ivy Educational Consulting, LLC (“Opposer”), requests that Green Ivy Holdings LLC (“GIH” or “Applicant”) respond to the following interrogatories and requests for admission, in the manner and within the time prescribed by the Federal Rules of Civil Procedure and 37 CFR §§ 2.119, 2.120(a)(3).

C. The term “relate to,” including its various forms such as “relating to” and “related to” shall mean: consist of, refer to, reflect, concern, describe, discuss, comment on, embody, respond to, support, contradict, or be in any way logically or factually connected with the matter discussed as the context makes appropriate.

D. “Document” is used herein in its customary broad sense as defined in Fed. R. Civ. P. 34(a), and includes, without limitation, the original or any copy of any and all written, printed, typed, recorded or graphic matter, electronic files whether maintained on floppy disks, hard drives, back-up tapes, flash memory, CD-ROMs, DVD-ROMs, or zip disks, cloud storage, photographic matter, and sound reproduction by a magnetic recording, tapes, records or other devices, however produced or reproduced, as well as interoffice and intraoffice memoranda, staff reports, contracts, engagement letters, electronic mail, word processing files, computer programs, agreements, correspondence, letters, notes, charts, tabulations, data compilations, diagrams, drafts of a document, summaries, work papers, accounts, invoices, receipts, checks, check stubs, time slips, deposit slips, ledgers, journals, balance sheets, income statements, accounts, and records or transcripts of meetings, conferences, and telephonic or other conversations of communications, which are in the possession, custody or control of Applicant (or of its employees, agents, or attorneys or of any persons acting for Applicant or on its behalf), or to which Applicant has access.

E. “You,” “Your,” “Applicant” or “GIH” means Green Ivy Holdings LLC, Jennifer Jones and any employees, agents, representatives, consultants or licensees.

F. “Opposer” or “GIEC” means Green Ivy Educational Consulting, LLC, Ana Homayoun, and any employees, agents, representatives, consultants or licensees.

G. “Marks” means the marks applied for by GIH in Application Serial Nos. 85775379, 85775380 and 85775382 and any amendments thereto, including GREEN IVY, GREEN IVY SCHOOLS and GREEN IVY LEARNING. Reference to the Marks herein means any individual Mark or combination thereof.

H. “Applications” means Application Serial Nos. 85775379, 85775380 and 85775382 and any amendments thereto. Reference to the Applications herein means any individual Application or combination thereof.

I. “Applicant’s Services” means the services as set forth in the Applications.

J. “Answer” means the Answer to the Notice of Opposition.

INSTRUCTIONS FOR REQUEST FOR ADMISSIONS

1. If you object to any Request, the reasons therefore shall be fully stated in your response. Your responses shall specifically deny the matter requested to be admitted or set forth in detail the reasons why you cannot truthfully admit or deny the matter.

2. Any denial of the matter requested to be admitted shall fairly meet the substance of the matter requested to be admitted and when good faith requires you to qualify an answer, or deny only a part of the matter requested to be admitted, you shall specify so much of the matter that is true and qualify or deny only the remainder.

3. You may not give lack of information or knowledge as a reason for failure to admit or deny a matter unless you, in good faith, state that you have made a reasonable inquiry and the information known or readily ascertainable or obtainable by you is insufficient to enable you to admit or deny the matter.

4. If a matter requested to be admitted constitutes a genuine issue for trial, the matter is not, for that reason alone, subject to a legitimate or good faith objection.

REQUESTS FOR ADMISSION

1. You filed Your applications to register the Marks on November 9, 2012.
2. You filed amendments to Your applications to register the Marks on June 21, 2013.
3. You use or intend to use the Marks to provide Applicant's Services.
4. As of the date of filing the Applications, You had not used the Marks in interstate commerce in connection with Applicant's Services.
5. GIH is the registrant of the domain name www.greenivyschools.com and www.greenivy.com.
6. As of the date of filing the Applications, You knew of the existence of Green Ivy Education Consulting, LLC.
7. As of the date of filing the Applications, You were aware that Opposer used the GREEN IVY mark.
8. As of the date of filing the Applications, You were aware that Opposer provides tutoring services to students under the GREEN IVY mark.
9. As of the date of filing the Applications, You were aware that Opposer provides educational consulting services to schools under the GREEN IVY mark.
10. As of the date of filing the Applications, You were aware that Opposer conducts seminars and speaking engagements and publish articles and books on topics in the field of education under the GREEN IVY mark.
11. As of the date of filing the Applications, You had visited either anahomayoun.com or greenivyed.com.

12. You have received correspondence intended for Ana Homayoun or Green Ivy Educational Consulting, LLC.

13. The email attached as Exhibit A is a genuine copy of an email from Jennifer Jones forwarding an email to Ana Homayoun.

INSTRUCTIONS FOR INTERROGATORIES

1. Your answers must include all information concerning the matters inquired about available to you, your attorney or attorneys or other agents and to investigators or other agents for you or your attorney or attorneys.

2. If you cannot answer any interrogatory fully and completely after exercising due diligence to inquire and secure the information necessary to do so, please so state and answer each such interrogatory to the full extent you deem possible, specify the portion of each interrogatory that you claim to be unable to answer fully and completely, state the facts upon which you rely to support your contention that you are unable to answer the interrogatory fully and completely, and state what knowledge, information or belief you have concerning the unanswered portion of each such interrogatory.

3. Whenever you are requested to “identify” an individual by any of the interrogatories herein, specify the full name, present position and present business affiliation, business address and business telephone number of such individual. Whenever you are requested to “identify” documents by any of the interrogatories herein, you shall specify, if known, its author, recipient(s), date, and subject matter.

4. If any privilege is asserted as to any information requested, or as to any documents required to be identified or produced by an interrogatory:

a. State the precise nature of the privilege claimed;

- b. State the basis for privilege claimed relative to the specific information contained in the document;
 - c. State all facts contained within the document, deleting only opinions, theories, mental impressions and non-factual statements;
 - d. If privilege is asserted with respect to any information, identify each person who has knowledge of such information, or to whom such information has been communicated in any matter or fashion, whether or not privilege is claimed with respect to such communication.
5. These interrogatories shall be continuous in nature. If you subsequently obtain information that renders the answers to these interrogatories incomplete or inaccurate, you are to amend the answers to make them complete and accurate.

INTERROGATORIES

1. If the answers to any of the foregoing Requests for Admission are anything but an unqualified admission, please describe the basis for your response, including a description of the key facts which support your response.
2. State the date Applicant was incorporated and the states in which Applicant is qualified or licensed to do business.
3. Describe the corporate structure of the Applicant and owner of GIH.
4. Identify and describe any investors in GIH.
5. Identify all persons known to Applicant who took part in or were responsible for (i) the creation of the Marks; (ii) the selection of the Marks for use in connection with Applicant's Services; (iii) adoption of the Marks for use in connection with Applicant's Services; and (iv) the earliest use, if any, of the Marks in connection with Applicant's Services.
6. State whether any searches or investigations were conducted by You or any person on Your behalf (including attorneys) to determine whether the Marks were available as a trademark or service mark and, if so:

- a. identify the person responsible for initiating each search;
 - b. identify the person who conducted each search;
 - c. identify classes, the date of the search, and all registered and common law trademarks, trade names, and corporate names uncovered in each such search;
 - d. identify such search and all documents relating to each such search.
7. Set forth in detail the basis for Applicant's claim that it has a bona fide intent to use the Mark in commerce, including any specific plans for offering the Applicant's Services under the Marks.
8. Identify all steps that Applicant has taken to put the Marks into use in connection with the Applicant's Services.
9. If you claim that the Marks are currently in use:
 - a. set forth the claimed date of first use for each of the Marks, and
 - b. identify all documents that support the claimed date(s) of first use,
 - c. Set forth the approximate dollar amount of Applicant's annual sales or number of users of the services offered under the Marks, if any, broken down by year and by state;
 - d. State the manner in which the Marks were used, (e.g., by affixation to websites, publicity materials, instructional materials, advertisements).
 - e. Identify the first date that Applicant marketed or advertised any goods bearing the Marks and describe the means by which the goods were marketed.
 - f. State the geographic areas in which any goods or services bearing the Marks have been marketed and/or distributed.

10. Set forth in detail the nature of the following services that Applicant (i) has provided, and (ii) intends to provide, including the location of such services, the medium in which they will be offered, the proposed content and/or subject matter of the services, the intended instructors or service providers and any other intended participants. Specifically, please provide such a description with respect to the following services described in the Applications:

- a. The “providing pre-kindergarten through 12th grade classroom instruction “
- b. The “developing curriculum for others,” including the intended identity of the “others;”
- c. The “providing after school educational programs”
- d. The “providing classes, workshops and seminars;”
- e. The “testing, analysis and evaluation.”

11. State whether Applicant offers or intends to offer each of the following as part of Applicant’s Services or otherwise intends to offer them as branded products or services under the Marks:

- a. Websites featuring information on education or educational services;
- b. Printed or online advice columns or other publications regarding education or educational services;
- c. Books;
- d. Audio books;
- e. Podcasts;
- f. Blogs;
- g. Seminars or speaking engagements;
- h. Printed instructional materials;

- i. Online instructional materials.
12. State the intended customers or audience for the goods and services that are (i) currently offered using the Marks and (ii) intended to be offered using the Marks.
13. Identify the actual trade channels through which GIH (i) has sold and now is offering goods or services using the Marks or any variation thereof, and (ii) through which it intends to sell or offer goods or services using the Marks or any variation thereof.
14. Identify all purchasers or users by class (e.g., retailers, educators, students, general public) of Applicant's Services offered under the Marks.
15. Identify the launch date, URL address, and closure date (if any) for any websites launched or maintained by Applicant or at Applicant's direction that include the Marks or have marketed or sold any goods bearing the Marks.
16. Set forth the number of unique visitors to each of the websites identified in the foregoing Interrogatory on a monthly basis from the creation of the website to the present.
17. Set forth Applicant's annual expenditures, if any, for advertising and promoting goods and services offered under the Marks.
18. Identify the media, if any, through which GIH has advertised or promoted its goods or services or intends to advertise or promote its goods or services under the Marks or any variation thereof, including but not limited to the names of all newspapers, magazines, journals, radio stations, television stations, websites and Internet search engines.
19. List all items of publicity material not already identified in the foregoing Interrogatory in which GIH has advertised or promoted goods or services bearing the Marks.
20. Identify each person employed by Applicant and each outside agent or agency retained by Applicant who has been or now is responsible for (a) marketing, advertising and

promotion, and (b) bookkeeping and accounting with respect to any goods or services offered for sale or sold under the Marks or any variations thereof.

21. Identify any person from whom You obtained rights to use the Marks.

22. Identify any person to whom You have granted rights to use the Mark and any document granting such rights.

23. State whether You or any person acting for You or on Your behalf has received any communication, oral or in writing, from any Person which suggests, implies, or infers that Applicant or Jennifer Jones may be connected or associated with Ana Homayoun, Ms. Homayoun's books or other publications or Green Ivy Educational Consulting, LLC, or which includes an inquiry as to whether there is or may be any such connection or association.

24. To the extent not already disclosed in connection with the foregoing Interrogatory, identify any instance or occurrence in which any Person was actually confused between Applicant or Jennifer Jones and Ana Homayoun, Ms. Homayoun's books or other publications or Green Ivy Educational Consulting, LLC due to their use of their trademarks, trade name or the Marks. Describe with specificity each such instance or occurrence.

25. Identify any complaints received by GIH or Jennifer Jones related in any way to any goods or services bearing the Marks.

26. Identify the date of and the manner in which You became aware of Opposer and Ana Homayoun, Ms. Homayoun's work in the field of education or Ms. Homayoun's business activities, including that she is active in the field of educational services.

27. Identify the date of and the manner in which You gained actual notice as to Opposer's use of the name "Green Ivy."

28. Identify the date of and the circumstances surrounding Your first visit to either anahomayoun.com or greenivied.com.

29. Set forth in detail the factual basis for the claim in paragraph 15 of the Answer that: "Opposer's alleged use of its GREEN IVY mark does not constitute use in commerce."

30. Set forth in detail the factual basis for the claim in paragraph 16 of the Answer that: "Applicant's use of its marks will not mistakenly be thought by the public to derive from the same source as Opposer's services, nor will such use be thought by the public to be a use by Opposer or with Opposer's authorization and/or approval."

31. Set forth in detail the factual basis for the claim in paragraph 17 of the Answer that: "Applicant's mark, when used with Applicant's services, is not likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection or association of Applicant with the Opposer, or as to the origin, sponsorship or approval of Applicant's services by Opposer."

32. Identify each person who participated in the preparation of Applicant's responses to the foregoing interrogatories or furnished any information in response thereto.

33. Identify all documents relating to the subject matter of the foregoing interrogatories and the preparation of Applicant's responses thereto.

Dated: New York, New York
November 13, 2013

SATTERLEE STEPHENS BURKE & BURKE LLP

By: 

Mark Lerner

Jennifer Philbrick McArdle

Attorneys for Opposers

230 Park Avenue

New York, New York 10169

Telephone: (212) 818-9200

Facsimile: (212) 818-9606

EXHIBIT A

Subject: Fwd: Reaching out regarding our trademark discussion

From: Ana Homayoun (ana@greenivyed.com)

To: vicky@greenivyed.com;

Date: Tuesday, September 17, 2013 11:53 AM

Sent from my iPhone

Begin forwarded message:

From: Jennifer Jones <jjones@greenivy.com>
Date: September 17, 2013 9:21:39 AM PDT
To: "ana@greenivyed.com" <ana@greenivyed.com>
Subject: Reaching out regarding our trademark discussion

Dear Ana,

I think the note below was meant for you, but was glad to have this excuse to reach out. I am so impressed with what I have read about you.

I realize that your attorney has filed an opposition to our trademark filing, and we will be filing our response shortly, but I wonder if there is not a way for the two of us to avoid paying all of these legal fees and come to an understanding that we can both live with.

Would you be open to having a phone conversation to discuss?

Here are a few thoughts I wanted to share. I welcome yours as well.

I know you want to make sure you can continue to use your brand uninterrupted, and your focus appears to be on counseling and tutoring students. I have raised investor funding around my brand (our first school just opened last week), and it is important to me to be able to continue to use it in relation to schools.

Seems like there should be a way to accomplish both goals and coexist?

Maybe by type of use (schools vs consulting)? Maybe by geography? Or both?

I would also be happy to reimburse you for what you have spent so far in fees, and contribute what I would be saving in fees going forward. I think we would both like to put that funding toward better uses for the people we are here to serve. I worry sometimes that attorneys aren't always motivated for a quick resolution, when resolution could be found more directly with a simple

conversation.

If you have plans for New York City, I am also open to helping with those plans, and could provide cross-links on our website, etc. I do not see us as competition and, in fact, I very much admire your work and feel aligned with the messages you promote.

So, in the spirit of a fellow educator and as someone who, I believe, shares passions very similar to your own, I felt that I should reach out and see if you would like to discuss the brand issue. I suspect that once you and I understand the other's intent, we will find straightforward ways to make it work on both sides.

Please let me know if you are interested in having that discussion.

With kind regards,

Jennifer Jones

Jennifer Jones
Founder
Green Ivy Schools

212.627.0129
www.greenivyschools.com
www.bmpreschool.com

Begin forwarded message:

From: Colleen O'Kane <okanerowsey@sbcglobal.net>
Subject: Tutoring
Date: September 2, 2013 9:39:12 PM EDT
To: "info@greenivy.com" <info@greenivy.com>

Hello,

I would like information on your fees and availability for this school year. Also, how do you match a child with a tutor? I have two 8th grade boys who particularly need tutoring in math and how to study for tests. They are in accelerated math at Blach but while they seem to understand the work, rarely get higher than a B on the tests and often get C's even though they say the tests are not hard.

I have read your book and a friend's son goes there for tutoring.

Thank you!

Colleen

Sent from my iPhone

|

CERTIFICATE OF SERVICE
(37 C.F.R. § 2.119)

I declare under penalty of perjury that on the 13th day of November, 2013, OPPOSERS' REQUEST FOR ADMISSIONS AND FIRST SET OF INTERROGATORIES was served on applicant, GREEN IVY HOLDINGS LLC, by delivering a true and correct copy, by First Class Mail, postage prepaid, to:

Joseph R. Englander, Esq.
Shutts & Bowen LLP
200 E. Broward Blvd., Ste. 2100
Fort Lauderdale, Florida 33301-1972

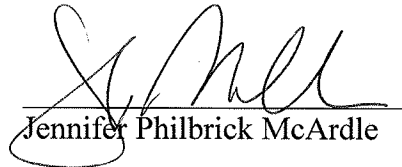

Jennifer Philbrick McArdle

EXHIBIT G

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Mailed: February 20, 2014

Opposition No. 91211873

Green Ivy Educational
Consulting, LLC

v.

Green Ivy Holdings LLC

Nicole Thier, Paralegal Specialist:

Insofar as the Board is not in receipt of a responsive brief from applicant, opposer's motion (filed December 24, 2013) to compel is hereby granted as conceded. See Trademark Rule 2.127(a).

In view thereof, applicant is hereby ordered to serve no later than **THIRTY DAYS** from the mailing date of this order its full and complete responses, without objection, to opposer's request for the production of documents and respond to opposer's first set of interrogatories. See *Bison Corp. v. Perfecta Chemie B.V.*, 4 USPQ2d 1718, (TTAB 1987). In the event applicant fails to respond as ordered herein, the Board may entertain a motion for sanctions, including the entry of judgment pursuant to Trademark Rule 2.120(g), 37 CFR Section 2.120(g).

Trial dates, including the close of discovery are
reset as follows:

Expert Disclosures Due	3/21/2014
Discovery Closes	4/20/2014
Plaintiff's Pretrial Disclosures	6/4/2014
Plaintiff's 30-day Trial Period Ends	7/19/2014
Defendant's Pretrial Disclosures	8/3/2014
Defendant's 30-day Trial Period Ends	9/17/2014
Plaintiff's Rebuttal Disclosures	10/2/2014
Plaintiff's 15-day Rebuttal Period Ends	11/1/2014

In each instance, a copy of the transcript of
testimony together with copies of documentary exhibits,
must be served on the adverse party within thirty days
after completion of the taking of testimony. See Trademark
Rule 2.125.

Briefs shall be filed in accordance with Trademark
Rules 2.128(a) and (b). An oral hearing will be set only upon
request filed as provided by Trademark Rule 2.129.

EXHIBIT H

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Green Ivy Educational Consulting, LLC,

Opposer,

Opposition No. 91211873

vs.

Serial Nos.: 85775379, 85775380, and
85775382

Green Ivy Holdings LLC,

Applicant.

Marks: GREEN IVY, GREEN IVY
SCHOOLS, and GREEN IVY LEARNING

_____/

APPLICANT'S RESPONSE TO FIRST REQUEST FOR PRODUCTION

Applicant, Green Ivy Holdings LLC ("Green Ivy"), through counsel, and pursuant to Federal Rule of Civil Procedure 34, and 37 C.F.R § 2.120, responds to Opposer, Green Ivy Educational Consulting, LLC's, First Request for Production as follows:

1. All responsive documents are available for inspection and copying at offices of undersigned counsel.
2. To the extent these documents are not protected by attorney-client privilege or the work product doctrine, none. A search was done for name availability, *see* Response to Request 1.
3. To the extent these documents are not protected by attorney-client privilege or the work product doctrine, none. A search was done for name availability, *see* Response to Request 1.
4. None.
5. All responsive documents are available for inspection and copying at offices of undersigned counsel. *See* Response to Request 1.

6. Responsive documents are freely available public records on the TSDR service of the United States Patent and Trademark Office.

7. None.

8. All responsive documents are available for inspection and copying at offices of undersigned counsel.

9. All responsive documents are available for inspection and copying at offices of undersigned counsel.

10. All responsive documents are available for inspection and copying at offices of undersigned counsel.

11. All responsive documents are available for inspection and copying at offices of undersigned counsel.

12. All responsive documents are available for inspection and copying at offices of undersigned counsel.

13. All responsive documents are available for inspection and copying at offices of undersigned counsel.

14. All responsive documents are available for inspection and copying at offices of undersigned counsel.

15. All responsive documents are available for inspection and copying at offices of undersigned counsel.

16. All responsive documents are available for inspection and copying at offices of undersigned counsel.

17. All responsive documents are available for inspection and copying at offices of undersigned counsel.

18. All responsive documents are available for inspection and copying at offices of undersigned counsel.

19. None.

20. All responsive documents are available for inspection and copying at offices of undersigned counsel.

21. All responsive documents are available for inspection and copying at offices of undersigned counsel.

22. All responsive documents are available for inspection and copying at offices of undersigned counsel.

23. None.

24. All responsive documents are available for inspection and copying at offices of undersigned counsel.

25. None.

26. Other than the instant Opposition, none.

27. None.

28. None.

29. The only example is the email that is attached as Exhibit A to Opposer's First Request for Admissions. Green Ivy is unsure whether that document constitutes confusion and whether that document is legitimate or authentic.

30. None.

31. All responsive documents are available for inspection and copying at offices of undersigned counsel.

32. All responsive documents are available for inspection and copying at offices of

undersigned counsel.


33. At this time, Green Ivy does not know which documents it intends to rely upon during the trial.

34. None.

35. None.

Dated: March 24, 2014

SHUTTS & BOWEN LLP
Counsel for Applicant
Green Ivy Holdings LLC
1100 CityPlace Tower
525 Okeechobee Boulevard
West Palm Beach, FL 33401
Telephone: (561) 835-8500
Facsimile: (561) 650-8530

By: 
Daniel J. Barsky
Florida Bar No. 25713

CERTIFICATE OF SERVICE

24th I HEREBY CERTIFY that a true and correct copy of the foregoing was served this day of March, 2014 via United States First Class Mail, postage prepaid, on:

Mark Lerner, Esq.
Jennifer Philbrick McArdle, Esq.
Satterlee Stephens Burke & Burke LLP
Attorneys for Opposer
230 Park Avenue
New York, New York 10169


Counsel

EXHIBIT I

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Green Ivy Educational Consulting, LLC,

Opposer,

Opposition No. 91211873

vs.

Serial Nos.: 85775379, 85775380, and
85775382

Green Ivy Holdings LLC,

Applicant.

Marks: GREEN IVY, GREEN IVY
SCHOOLS, and GREEN IVY LEARNING

**APPLICANT'S RESPONSE TO FIRST REQUEST FOR ADMISSIONS
AND UNVERIFIED RESPONSES TO OPPOSER'S FIRST INTERROGATORIES**

Applicant, Green Ivy Holdings LLC ("Green Ivy"), through counsel, and pursuant to Federal Rules of Civil Procedure 33 and 36, and 37 C.F.R § 2.120, responds to Opposer, Green Ivy Educational Consulting, LLC's, First Request for Admissions and First Interrogatories as follows:

Responses to First Request for Admissions

1. Admitted.
2. Denied. The filing date was June 10, 2013.
3. Admitted.
4. Denied, the Marks have been used in interstate commerce.
5. Denied.
6. Denied. Green Ivy was unaware.
7. Denied. Green Ivy was unaware.
8. Denied. Green Ivy was unaware.
9. Denied. Green Ivy was unaware.

10. Denied. Green Ivy was unaware.
11. Denied.
12. Denied. Green Ivy has received a single email that may have been intended for Opposer, but Green Ivy does not know for certain whether the email was intended for Ana Homayoun or Green Ivy Educational Consulting, LLC.
13. Denied. Exhibit A is a genuine copy of an email sent from Green Ivy to Ana Homayoun. However, Green Ivy denies all other characterizations of Exhibit A made in this Request for Admission, including, without limitation, the characterization that Exhibit A is “forwarding an email to Ana Homayoun.”

Unverified Answers to Interrogatories

1. The basis for the denial of each admission that was denied was contained in the response thereto.
2. Green Ivy is a limited liability company, therefore it was not incorporated and there is no answer to this interrogatory. Green Ivy is presently licensed in New York and Delaware.
3. Green Ivy is a limited liability company formed under the laws of the State of Delaware.
4. Green Ivy objects to this interrogatory as the investors, if any, in Green Ivy are not relevant to this Opposition and therefore this Interrogatory is not reasonably calculated to lead to the discovery of admissible evidence.
5. Jennifer Jones. Additional individuals were consulted as shown in the documents being produced herewith pursuant to Green Ivy’s Responses to Opposer’s Request for Production.

6. To the extent that such searches are not protected by the attorney-client privilege or the work product doctrine, none. As shown in the documents being produced as part of Green Ivy's Response to Opposer's Request for Production, searches were done for name availability. These searches revealed the Marks were available as corporate and domain names.

7. Green Ivy is uncertain to which Mark this interrogatory refers as it is directed to "a bona fide intent to use the Mark in commerce" while this Opposition is directed to three separate marks. However, Green Ivy is currently using the domain names greenivyschools.com and greenivy.com. Green Ivy has also used the names "Green Ivy" and "Green Ivy Schools" and has been referred to by those names in various publications both produced by Green Ivy and publications produced by others.

8. Green Ivy has used the Marks in connection with the operation of its school in Battery Park and in the preparation for the opening of its Pine Street school. The website <http://www.greenivyschools.com> uses the names "Green Ivy" and "Green Ivy Schools" and various publications have used the Marks when describing Green Ivy and its schools. Green Ivy's schools are known by the Marks.

9. The Marks were used in commerce on or before November 28, 2012 and responsive documents are available for copying and inspection. Because the Marks have not been in use for more than a year there are no annual sales numbers – or other metrics – for the Marks. The Marks are used on websites, publicity materials, and in general media publications, including reports made by others regarding Green Ivy. The Marks have been used in medium that have a nationwide audience, including the Internet and news publications reporting on Green Ivy.

10. Green Ivy currently operates a Montessori school in Manhattan and is opening a

second Montessori school this fall. As such, the schools provide classroom instruction for students, provide after school educational programs, provide classes, workshops and seminars, and provide testing, analysis and evaluation as these are all components of grade schools. These services are provided in Green Ivy's school in Manhattan and will be expanded to the second school in Manhattan when that school opens, as well as to other, future schools as they are opened.

11. Green Ivy does, or intends to offer, all of the services listed as they are all services of a grade school.

12. The intended audience is parents who have children that are school age or are approaching school age.

13. Green Ivy has used the Internet and traditional media publications.

14. *See Answer to Interrogatory 12, above.*

15. Green Ivy does not remember the exact launch date of the website <http://www.greenivyschools.com>. No websites have been closed.

16. Unknown.

17. The Marks have not been in use and generating revenue for more than a year as the first school opened in September 2013 and therefore there are no annual numbers or statistics.

18. *See Answer to Interrogatory 13, above.*

19. None.

20. Presently, none.

21. None.

22. None.

23. None. While Green Ivy has received a single email, Green Ivy does not know what the author of that email thought or whether the email is legitimate.

24. None.

25. None.

26. Green Ivy does not recall the specific date and manner.

27. *See Answer to Interrogatory 26, above.*

28. *See Answer to Interrogatory 26, above.*

29. Upon information and belief, Opposer does not use her alleged mark in interstate commerce, but instead works in California. Moreover, Opposer markets herself as the good or service and not her company or any mark.

30. Green Ivy and Opposer engage in different businesses – running schools and what appears to be college consulting, respectively – and these two areas are not likely to be confused due to the Marks. Moreover, the Marks and Opposer’s alleged mark are, themselves, substantially different and distinguishable.

31. Green Ivy and Opposer engage in different businesses – running schools and what appears to be college consulting, respectively – and these two areas are not likely to be confused due to the Marks. Moreover, the Marks and Opposer’s alleged mark are, themselves, substantially different and distinguishable.

32. Jonathan Sanchez-Jaimes and Daniel J. Barsky, Esq., counsel for Green Ivy.

33. All responsive documents are available for copying and inspection at the offices of undersigned counsel.

Dated: March 24, 2014

SHUTTS & BOWEN LLP
Counsel for Applicant
Green Ivy Holdings LLC
1100 CityPlace Tower
525 Okeechobee Boulevard
West Palm Beach, FL 33401
Telephone: (561) 835-8500
Facsimile: (561) 650-8530

By: 

Daniel J. Barsky
Florida Bar No. 25713

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 24th day of March, 2014 via United States First Class Mail, postage prepaid, on:

Mark Lerner, Esq.
Jennifer Philbrick McArdle, Esq.
Satterlee Stephens Burke & Burke LLP
Attorneys for Opposer
230 Park Avenue
New York, New York 10169


Counsel

EXHIBIT J

<p style="text-align: right;">Page 1</p> <p>UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD -----X GREEN IVY EDUCATIONAL CONSULTING, LLC,</p> <p style="padding-left: 40px;">Opposer, Opposition No. -against- 91211873</p> <p>GREEN IVY HOLDINGS LLC,</p> <p style="padding-left: 40px;">Applicant. -----X April 22, 2014 9:00 a.m.</p> <p>Deposition of JENNIFER JONES, taken by Opposer, pursuant to notice, at the offices of Satterlee, Stephens, Burke & Burke, 230 Park Avenue, New York, New York, before SUZANNE PASTOR, a Shorthand Reporter and Notary Public within and for the State of New York.</p>	<p style="text-align: right;">Page 3</p> <p>1 JENNIFER JONES, 2 residing at 70 Battery Place, New York, New York 3 10280, having been first duly sworn by the 4 Notary Public (Suzanne Pastor), was examined and 5 testified as follows: 6 EXAMINATION BY 7 MS. McARDLE: 8 Q. Would you please state your full 9 name for the record. 10 A. Jennifer Lee Jones. 11 Q. What is your home address? 12 A. 70 Battery Place, New York, New 13 York 10280. 14 Q. And you just swore to tell the 15 whole truth, is that correct? 16 A. Yes, I did. 17 Q. Is there anything that would 18 prevent you from giving true and correct 19 testimony today? 20 A. No. 21 Q. Have you ever been deposed before? 22 A. No. 23 Q. First time for everything. I'll go 24 through just a couple of the ground rules. It's 25 important that we don't talk over each other so</p>
<p style="text-align: right;">Page 2</p> <p>1 A P P E A R A N C E S: 2 SATTERLEE, STEPHENS, BURKE & BURKE, LLP 3 Attorneys for Opposer 4 230 Park Avenue 5 New York, New York 10169 6 7 BY: JENNIFER PHILBRICK McARDLE, ESQ. 8 9 SHUTTS & BOWEN, LLP 10 Attorneys for Applicant 11 525 Okeechobee Boulevard 12 West Palm Beach, Florida 33401 13 BY: DANIEL J. BARSKY, ESQ. 14 15 ALSO PRESENT: 16 17 ANA HOMAYOUN 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 that the court reporter can get everything down. 2 A. Sure. 3 Q. I'll ask the questions, you'll need 4 to answer them. As long as there's a question 5 pending, it's important that you don't speak to 6 your counsel. 7 If you need a break at any time, as 8 long as there's not a question pending, just let 9 me know and we can definitely take a break. 10 And just make sure you give verbal 11 answers so that the court reporter can be sure 12 to get them down. 13 A. Okay. 14 Q. Does that make sense? 15 A. It does. 16 Q. Great. Why don't we start with, 17 could you walk me through your educational 18 background. 19 A. Sure. 20 Q. Start with the earliest -- or start 21 with college I guess. 22 A. Okay. So let's see, my educational 23 background is long and winding. It starts at 24 Florida -- well, Florida State University was my 25 first college. I left Florida State early. I</p>

<p style="text-align: right;">Page 5</p> <p>1 did not graduate from Florida State. I think I 2 had an associates degree there. 3 Then I worked for a while, then I 4 went to -- I think the next one was University 5 of Miami. 6 Q. What years are we talking about? 7 A. You know, I don't remember. Sorry. 8 Been a long time and it's a very long, intricate 9 life. So I really don't know. I don't remember 10 the years. 11 Q. Okay. And you said you graduated 12 from U Miami? 13 A. No. Then I went to Florida 14 International University, did not graduate from 15 there either. Then I went to -- many years 16 later to the University of Illinois in Urbana 17 Champaign, graduated from there, finished my 18 bachelor's degree there. 19 Then I went to Teachers College at 20 Columbia University, did a master's degree there 21 and then went into a doctoral program and got a 22 doctorate there. 23 Q. Do you know the year that you 24 graduated from the University of Illinois? 25 A. I believe -- I mean, I don't. It</p>	<p style="text-align: right;">Page 7</p> <p>1 After University of Illinois you 2 said? 3 Q. Sure. 4 A. After? So after the University of 5 Illinois, when I went to Teachers College I was 6 working for the university; I believe that I was 7 working in my department. I had an 8 administrative role so I was doing, you know, 9 just clerical, research, random things, whatever 10 the professors needed in the department. And I 11 kept that job until -- I starting a teaching 12 role and my teaching job started I think in '98. 13 '97 or '98. 14 Q. And after that? 15 A. Then I began consulting. I went 16 back to Miami where I had been before, set up a 17 consulting firm and began to develop schools. 18 Q. And do you know approximately what 19 year you went back to Miami? 20 A. I believe it was 2000. I was 21 finishing my doctoral work. I had finished my 22 courses. Maybe it was 2000. 23 Q. And did there come a time where you 24 had a different role other than consulting? 25 A. At that point, no.</p>
<p style="text-align: right;">Page 6</p> <p>1 would be a guess. Sorry. One of my weaknesses 2 is dates. 3 Q. Do you have a five-year range? 4 A. Yes. It was in the '90s. I 5 believe it was early '90s. 6 Q. Before 1995? 7 A. Before '95. 8 Q. After 1990? 9 A. Sorry? 10 Q. And after 1990? 11 A. Yes, between '90 and '95. I'm 12 pretty sure it was right around '94. 13 Q. How about the master's degree from 14 Teachers College? 15 A. '99. 16 Q. And the Ph.D.? 17 A. 2001. 18 Q. Were you working in between those 19 degrees? 20 A. Oh, yes. 21 Q. Could you walk me through your 22 employment history. Why don't we start after 23 University of Illinois. 24 A. Okay, very long employment history, 25 so we might be here for a while.</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. After that time? 2 A. After that time, no. 3 Q. Are you currently employed? 4 A. I am. 5 Q. Where is that? 6 A. At Green Ivy Schools. 7 Q. How long have you been employed by 8 Green Ivy Schools? 9 A. Well, I believe since January of 10 last year. January of 2013. 11 Q. Prior to January of 2013 your 12 employment was a consulting role, is that 13 correct? 14 A. Yes. However, between the years of 15 2 -- I came to New York in 2004, I was 16 consulting. Kept consulting until -- I think I 17 finished my last work in 2008. It was right 18 around the crash. Then I started working on the 19 first school, developing a concept for the first 20 school that would be a part of this organization 21 that I have now. 22 Q. What's your current role at Green 23 Ivy Schools? 24 A. I am a managing member. 25 Q. Can you describe what your</p>

responsibilities are in that role?

A. I oversee the company's educational development, the overall development of schools. Pretty much anything that has anything to do with the educational content of the schools, so staffing, curriculum development, enrollment, admissions, some aspects of marketing, oversight for pretty much every area of the organization.

Q. Have you ever published any articles or books?

A. I have. A published a book called The Three Ps of Parenting.

Q. When was that?

A. That was I think 2006.

Q. I take it from the title that book was about parenting, is that correct?

A. No, actually the -- I had a publicist who encouraged me to put "parenting" in the title. It was really a book about children, meant to teach insights about children.

Q. Can you give me an example?

A. Yes. So the three Ps are power, protection and prediction. And these are things that children are seeking. These are things

that give children stability. And so the examples I gave were when a child has a schedule and can anticipate what's going to happen on any given day, that you'll find they're more secure, more relaxed, more compliant, more collaborative, in general just better participants. And so that's just one example.

Q. Was the book focused more from a parent's perspective or from a teacher's perspective?

A. Well, I would say that perspective -- because I was not a parent yet when I wrote the book so I wrote it from more of a teacher's perspective because that was what I had. But it was meant to be helpful to parents.

Q. And did that book refer to Green Ivy Schools anywhere?

A. No.

Q. Have you ever written any published articles other than the book?

A. Let's see, have I written published articles. No, I don't think so. No.

Q. Have you ever maintained a blog?

A. Yeah, I maintained a blog. Right around the time I was publishing the book I had

a blog. Ran for about I think two years.

Q. Do you remember the URL?

A. I had an organization called Learn Garden, and I believe it was under Learn Garden's URL.

Q. Who is the founder of Green Ivy Holdings LLC?

A. Me.

Q. Can we agree that I will refer to Green Ivy Holdings as GIH and that that's what I will mean?

A. Sure, absolutely.

Q. Are there any other executives?

A. No. I mean, I'm the managing member so I'm the person who oversees the organization and makes the decisions for the organization. I have a partner, Jonathan Sanchez Jimenez.

Q. Who is that?

A. Jonathan is my partner in the organization, so I rely on him to make and guide financial decisions and legal decisions.

Q. And when you say partner, do you mean a financial partner?

A. He is not a financial partner.

Q. But he makes financial and legal decisions?

A. He guides them, let's say that.

Q. And how does he guide them?

A. He gives me advice.

Q. Does he have experience in finance or the legal world?

A. He does.

Q. What is that experience?

A. I don't know his full resume, but he was the CEO of Visa Latin America for a period of time. He has a degree in law from Harvard and a degree in business from Harvard.

Q. And how did you meet Mr. Sanchez?

A. When he was the CEO of Visa International in Miami, I do remember that year, that was '99, once in a while it comes back to me, he had -- I think he had just taken over the leadership of Visa at the time. And he commissioned a school, a charter school that would provide Spanish immersion education for the children of the employees. And he called me because that's the kind of thing I was doing at that time. And that's how we met.

Q. Do you know how he heard of you in

1 the first instance?

2 A. I don't actually.

3 Q. Since 1999 have you continued to
4 work together?

5 A. We only worked together for I think
6 it was the year that we were developing the
7 school. And then we just became friends. We've
8 been friends since then.

9 Q. At what point did he start working
10 with you on the concept for Green Ivy Schools?

11 A. Well, he didn't -- I don't know if
12 he worked on the concept, but I invited him to
13 help me in I think it was 2012 when I first
14 reached out to him. I think it was late 2012.

15 Q. And how did you reach out to him?

16 A. I e-mailed him.

17 Q. Do you remember what you said in
18 the e-mail?

19 A. I don't.

20 Q. At that time in 2012 had you
21 already selected a name?

22 A. I don't remember, but I think you
23 have the e-mails around the name.

24 Q. Do you recall at what point in 2012
25 you reached out to Mr. Sanchez Jimenez?

1 A. I don't.

2 Q. So beginning of 2012 or the end of
3 2012?

4 A. I really don't remember, I'm sorry.

5 Q. Are there any other individuals
6 that are involved in the leadership of --

7 A. No.

8 Q. Are there any other individuals
9 that are at all involved in the schools?

10 A. Well, yes, I have employees.

11 Q. In the leadership of the schools,
12 excuse me.

13 A. Jonathan and I are the only leaders
14 in the school.

15 Q. So is Jonathan employed by Green
16 Ivy Schools?

17 A. He is not.

18 Q. Does he receive any compensation?

19 A. He does not, no.

20 Q. How much time would you say he
21 spends working with Green Ivy Schools?

22 A. I don't know, to be honest.

23 Q. And you described his roles as
24 financial and legal, is that correct?

25 A. Right, that's his area of

1 expertise. So that's what I rely on him for.

2 Q. Can you give me an example of a
3 time where you would consult with him?

4 A. So this is the first company that I
5 have ever built. In the past I consulted. So I
6 ask him, so in building a company what do you
7 recommend in terms of budgeting, budget
8 projections, the kinds of expenditures that we
9 should make now versus later, how should we
10 think about the financial investment in
11 marketing, how should we think about a financial
12 development in technology. Mostly big picture
13 decisions which I'm new at making.

14 Q. Have you ever talked with him about
15 trademark issues?

16 A. Oh, yes.

17 Q. At what time did you first speak
18 with him about trademark issues?

19 A. I do not remember.

20 Q. Was it in that initial conversation
21 in 2012?

22 A. I don't think so. I don't think
23 trademark came up that early, but I don't
24 remember, to be honest.

25 Q. Do you remember having any

1 conversations with him about --

2 A. Oh, yes.

3 Q. But you can't give me any dates.

4 A. I am really terrible with dates.
5 So if this deposition relies on dates, I'm going
6 to be your worst nightmare.

7 Q. Was the first time you spoke with
8 him about trademark or a name within the last
9 year?

10 A. I don't think so. I think it's
11 been more than a year because I think he's the
12 one who raised the issue, should we think about
13 trademarking, what's the long term vision for
14 the organization. Again, part of these bigger
15 picture questions. Where should our financial
16 investment be, things like that.

17 Q. So would that have been just prior
18 to the time when you registered the trademarks?

19 A. When you say "just prior," I'm not
20 sure what you mean. Do you mean like a month
21 before or three months before?

22 Q. I can pose the question a different
23 way. Do you think he raised the issue of
24 trademarks more than a month before you
25 registered the trademarks?

1 A. Oh, yes, yes.
 2 Q. Approximately how many months do
 3 you think it was between when he first raised
 4 it?
 5 A. More than six.
 6 Q. Less than eight?
 7 A. I really don't remember. More than
 8 six.
 9 Q. Was it less than a year before?
 10 A. Probably.
 11 Q. Are there any investors in Green
 12 Ivy Schools?
 13 A. There are.
 14 Q. Who are they?
 15 MR. BARSKY: You can go ahead and
 16 answer.
 17 A. I actually don't know the names
 18 because Jonathan handles that. So my answer is
 19 I don't really know because that's Jonathan's
 20 domain.
 21 Q. How many investors are there?
 22 A. I don't know. That's totally under
 23 his jurisdiction.
 24 Q. I'm correct that you're the
 25 managing member of Green Ivy Holdings.

1 A. I am.
 2 Q. But you don't know how many
 3 investors you have?
 4 A. I don't know. Jonathan designed
 5 our financial structure and he's the person who
 6 brought the capital to the table.
 7 Q. So he does contribute finances
 8 to --
 9 A. Not out of his own --
 10 MR. BARSKY: Object to the form.
 11 You may answer.
 12 A. I can answer?
 13 MR. BARSKY: Yes.
 14 A. Not out of his own pocket, no. He
 15 doesn't invest any money himself in it, but he's
 16 the person who leveraged the capital.
 17 Q. So he collects capital from others
 18 and brings it to Green Ivy Schools?
 19 A. I couldn't tell you how the money
 20 moves, to be honest with you.
 21 Q. Do you have any awareness of how
 22 much capital Mr. Sanchez Jimenez has brought in to
 23 Green Ivy?
 24 A. I don't know the exact number.
 25 Q. Do you know an approximate number?

1 A. I don't.
 2 Q. Do you know a range?
 3 A. I don't.
 4 Q. Is it more than \$100,000?
 5 A. I don't. Not going to be good at
 6 the range game. I have no idea.
 7 Q. You don't know whether it's more or
 8 less than \$100,000?
 9 A. I don't because I don't know how
 10 it's structured. So I think without knowing how
 11 it's structured I can't make estimations about
 12 it.
 13 Q. Do you have an understanding of how
 14 much it cost to run a school?
 15 A. To run a school, yes, I can tell
 16 you that.
 17 Q. Do you have an understanding of how
 18 much of the capital Mr. Sanchez Jimenez is
 19 responsible for bringing in contributes to that
 20 budget?
 21 A. I can tell you how much it cost to
 22 run the school. And I can tell you how much it
 23 cost to build the school. That I can tell you.
 24 The rest is completely under his jurisdiction.
 25 Q. So you can't tell me how you get

1 the money to run the schools?
 2 A. Not in any level of detail that
 3 would be meaningful to you.
 4 Q. And you can't tell me how much you
 5 need to gather from your investors in order to
 6 run the school.
 7 A. I can tell you how much it cost to
 8 build a school and run a school.
 9 Q. How much does it cost to build a
 10 school and run a school?
 11 A. So for our preschool, for example,
 12 it cost about a million dollars to a million and
 13 a half dollars to build and run it.
 14 Q. And where does that million to
 15 million and a half come from?
 16 A. I don't know.
 17 Q. No idea at all?
 18 A. I don't know with any specificity
 19 that I can share with you. So no. It would
 20 just be a guess.
 21 Q. Who drives business decisions for
 22 the individual schools?
 23 A. Define a business decision.
 24 Q. Why don't you define a business
 25 decision. What do you think of as a business

<p style="text-align: right;">Page 21</p> <p>1 decision?</p> <p>2 A. I don't know. What is a business</p> <p>3 decision? For me it's hiring a teacher.</p> <p>4 Q. Who drives those decisions?</p> <p>5 A. Me.</p> <p>6 Q. And who drives decisions about</p> <p>7 budgeting?</p> <p>8 A. Who drives decisions about</p> <p>9 budgeting? Well, it depends on what you're</p> <p>10 talking about. So if it's budgeting for buying</p> <p>11 class materials, then I drive it. It just</p> <p>12 depends on what area you're talking about.</p> <p>13 Q. Is there an example of another area</p> <p>14 where you don't drive the decision-making?</p> <p>15 A. Yes.</p> <p>16 Q. What are those?</p> <p>17 A. Constructions.</p> <p>18 Q. Who drives decision-making for</p> <p>19 construction?</p> <p>20 A. Jonathan.</p> <p>21 Q. Is there another example?</p> <p>22 A. I can't think of any.</p> <p>23 Q. Are there any other areas in which</p> <p>24 he drives the decision-making for Green Ivy?</p> <p>25 A. I can't think of any, but I suspect</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. And what schools does GIH currently</p> <p>2 operate?</p> <p>3 MR. BARSKY: Object to the form.</p> <p>4 You may answer.</p> <p>5 A. Battery Park Montessori.</p> <p>6 Q. Does GIH operate any schools?</p> <p>7 A. Yes.</p> <p>8 Q. Which schools are those?</p> <p>9 A. Battery Park Montessori.</p> <p>10 MR. BARSKY: The objection was to</p> <p>11 the plural.</p> <p>12 Q. When did Battery Park Montessori</p> <p>13 open?</p> <p>14 A. September 2013. Yay, a date.</p> <p>15 Q. And when did the planning begin to</p> <p>16 open Battery Park Montessori?</p> <p>17 A. When did the planning begin?</p> <p>18 Opened in September 2013 and I was sitting in a</p> <p>19 local cafe thinking about it in 2009. Sometime</p> <p>20 in 2009. No, I do not remember when.</p> <p>21 Q. At what point did investors become</p> <p>22 involved with Battery Park Montessori?</p> <p>23 A. I do not remember exactly, but it</p> <p>24 was after I reached out to Jonathan because he's</p> <p>25 the person who brought the investment.</p>
<p style="text-align: right;">Page 22</p> <p>1 there are.</p> <p>2 Q. What is the business of Green Ivy</p> <p>3 Holdings?</p> <p>4 A. Education.</p> <p>5 Q. Can you describe it in greater</p> <p>6 detail?</p> <p>7 A. Developing schools and eventually</p> <p>8 learning products.</p> <p>9 Q. Can you describe "learning</p> <p>10 products," what you mean by learning product?</p> <p>11 A. Not yet because we haven't</p> <p>12 developed them, but conceptually software,</p> <p>13 curriculum, learning materials.</p> <p>14 Q. What age ranges would you be</p> <p>15 targeting in those learning materials?</p> <p>16 A. Don't know yet.</p> <p>17 Q. We'll come back to that in a few</p> <p>18 minutes.</p> <p>19 Are there any other services</p> <p>20 offered by GIH?</p> <p>21 A. Services, you mean besides schools?</p> <p>22 Q. Sure, besides those you just</p> <p>23 mentioned.</p> <p>24 A. Well, the only service we currently</p> <p>25 offer is a school.</p>	<p style="text-align: right;">Page 24</p> <p>1 Q. Are there any other schools</p> <p>2 operated by Green Ivy Holdings?</p> <p>3 A. Not yet.</p> <p>4 Q. Are there any other schools planned</p> <p>5 to be operated?</p> <p>6 A. Yes. We have a school planned to</p> <p>7 open in this September, September 2014.</p> <p>8 Q. What school is that?</p> <p>9 A. Pine Street School.</p> <p>10 Q. Can you describe what Pine Street</p> <p>11 School will be, please?</p> <p>12 A. A school serving children ages 2</p> <p>13 through 8th grade with a</p> <p>14 Montessori-International Baccalaureate</p> <p>15 combination curriculum.</p> <p>16 Q. Are there any other services</p> <p>17 provided aside from that curriculum at Pine</p> <p>18 Street School?</p> <p>19 A. Yes. Actually, at both schools, at</p> <p>20 Battery Park Montessori currently and at Pine</p> <p>21 Street School starting in July or August this</p> <p>22 year, we'll offer what we call enrichment, which</p> <p>23 is after-school programming, summer camp.</p> <p>24 Q. Who is responsible for creating the</p> <p>25 programming?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. Currently my director of enrichment 2 is. 3 Q. Who is that? 4 A. Jen Henriquez. 5 Q. When was Ms. Henriquez hired? 6 A. Three weeks ago. 7 Q. Has other staff been hired for the 8 Pine Street School? 9 A. Yes. 10 Q. When did that staff hiring begin? 11 A. Well, each person is different. Do 12 you want me to go through -- 13 Q. The first person hired. 14 A. So Eileen Baker is the director of 15 the school. She was hired four weeks ago. 16 Approximately. And let's see, who else at Pine 17 Street School. That's it for official hires. 18 Q. How about Battery Park Montessori, 19 when was the first hire made for that school? 20 A. The first hire was the director, 21 her name is Sara, S-A-R-A, Bloomberg. And she 22 was hired in April of 2013. 23 Q. And are there any other schools 24 planned for opening? 25 A. Not currently.</p>	<p style="text-align: right;">Page 27</p> <p>1 ability to pay because these are private 2 schools. Primarily those things. 3 Q. I just want to make sure I 4 understand the full scope of services that are 5 offered in the school. I'll say the schools; 6 please stop me if it's different with respect to 7 one or the other and we can go through one first 8 and then the other if that's easier. 9 MR. BARSKY: Why don't you just 10 go -- because only one exists. 11 Q. We'll start with Battery Park 12 Montessori. Is a full day of school offered 13 there? 14 A. Well, yes. There's a full day 15 program that goes from 9 to 3. 16 Q. And alternatively, students can go 17 for a shorter portion of time, is that right? 18 A. We offer half day that runs from 9 19 to 12, a half day that runs from 1 to 4 and a 20 full day that runs from 9 to 3. 21 Q. That's entirely preschool, is that 22 correct? 23 A. Preschool-kindergarten because it's 24 a Montessori school. 25 Q. Are there particular subjects that</p>
<p style="text-align: right;">Page 26</p> <p>1 Q. You say "not currently." Do you 2 anticipate planning to open more schools? 3 A. Yes. 4 Q. Do you have any timeline with which 5 you expect to open more schools? 6 A. No, not yet. 7 Q. Do you have any plan with respect 8 to where those schools would be located? 9 A. We're projecting to do more in New 10 York City, but eventually we'd like to do more 11 outside of the city. 12 Q. What do you mean by "outside of the 13 city"? 14 A. We'd like to do more schools in 15 other cities. We haven't identified the cities 16 yet. We'd also like to do schools eventually 17 outside of the country. 18 Q. So nationwide and internationally? 19 A. In certain cities where we feel 20 like there's demand. 21 Q. What do you look for in a city to 22 determine whether there is demand? 23 A. Kind of the same conditions that we 24 have now. There's a shortage of schools, a 25 shortage of schools generally speaking. The</p>	<p style="text-align: right;">Page 28</p> <p>1 are covered? 2 A. All the subjects are covered. It's 3 a Montessori environment. In the Montessori 4 environment everything is covered. Math, 5 science, social studies, history, geography, the 6 works. 7 Q. Can you just give me a brief 8 description of the Montessori environment as you 9 understand it? 10 A. It is a room filled with materials 11 that cover all subject areas in which children 12 are allowed to work independently. 13 Q. How about after school, are there 14 any activities provided after school hours? 15 A. Yes. 16 Q. Could you please describe them? 17 A. Currently -- let's see, I don't run 18 it anymore so I don't know exactly. But 19 currently we offer music classes, we offer 20 chess, we offer cooking, we offer tennis. I 21 think that might be it for now. Oh, theater. 22 Q. Are those all programs students can 23 participate in for an additional fee? 24 A. Correct. 25 Q. Do you offer any tutoring?</p>

1 A. We do not.
 2 Q. How about seminars for parents, do
 3 you offer any seminars?
 4 A. No. We have talked about it but
 5 no.
 6 Q. In what ways do you communicate
 7 with parents for Battery Park Montessori?
 8 A. E-mail, Facebook, website, fliers,
 9 talking in the lobby.
 10 Q. Are there any sort of conferences
 11 with teachers or other staff?
 12 A. Sure, yes. Four meetings a year.
 13 Parent-teacher conferences.
 14 Q. What kind of subjects are discussed
 15 there?
 16 A. Anything the parent wants to
 17 discuss. Child's performance, progress
 18 concerns, expectations.
 19 Q. Are there any newsletters that go
 20 out to parents?
 21 A. We used to have newsletters, but
 22 now we do e-mail announcements, post to
 23 Facebook. We have a Pinterest, we have an
 24 Instagram, although I can't tell you what that
 25 is. And we have -- I think that's it.

1 Q. So all of those are targeted to
 2 parents, is that correct?
 3 A. Well, parents and the community.
 4 We like to -- unless it's something that needs
 5 to be secure, we like to share it with everybody
 6 in the neighborhood.
 7 Q. And can you just explain for the
 8 record what the community is that you're
 9 referring to?
 10 A. Realtors, admissions consultants,
 11 local store owners, other children's program
 12 providers. Prospective parents, people who
 13 aren't yet enrolled in the school but might be
 14 considering it.
 15 Q. What would you say your primary
 16 audience is for these communications?
 17 A. Parents.
 18 Q. Are there any other services that
 19 you provide other than those you just mentioned?
 20 A. No.
 21 Q. Are there any other services
 22 planned at Battery Park Montessori?
 23 A. Just school and enrichment. That's
 24 all we have planned right now.
 25 Q. How about at Pine Street School,

1 how do the services there differ from those we
 2 just discussed at Battery Park Montessori?
 3 A. They don't. School and enrichment.
 4 Q. But the age range is different, is
 5 that correct?
 6 A. Well, at Pine Street School we have
 7 more space, and at that school eventually we
 8 will serve children through eighth grade. So
 9 the enrichment program right now is offered to
 10 children up through eighth grade. The school in
 11 year 1 is limited from age 2 to age 6. And
 12 we're growing the school year by year.
 13 Q. How much do you plan to grow each
 14 year?
 15 A. It's just a projection right now
 16 but I would say 20 to 30 students a year.
 17 Q. Will you be growing by class year
 18 or just by class size?
 19 A. I don't totally understand the
 20 question, but let me try to clarify --
 21 Q. If you're adding 20 or 30 students
 22 per year, would that be adding a first grade in
 23 addition to a kindergarten or would that be
 24 increasing the number of kindergartners in the
 25 top?

1 A. Are we adding on the top or on the
 2 bottom. We're adding them on the bottom. The
 3 idea in developing the school is to grow the
 4 culture of the school by only enrolling children
 5 who are young and then letting those children
 6 grow up in the school.
 7 Q. I see. Did you authorize Shutts &
 8 Bowen to file a trademark application on behalf
 9 of GIH?
 10 A. Jonathan did.
 11 Q. Jonathan did?
 12 A. Yes.
 13 Q. Did you have any role in reviewing
 14 the trademark applications before they were
 15 made?
 16 A. I did.
 17 Q. Let's take a look.
 18 MS. MCARDLE: I'll ask the court
 19 reporter to mark the first document as Exhibit
 20 1.
 21 (Exhibit 1 for identification,
 22 Trademark Application)
 23 Q. Before we get to this actual
 24 document, Shutts & Bowen filed three trademark
 25 applications, is that correct?

1 A. I really don't know. No idea.
 2 Q. Let's turn to Exhibit 1 then. Do
 3 you recognize this document?
 4 A. No.
 5 Q. Have you ever seen this document
 6 before?
 7 A. I don't recognize the document.
 8 Q. Do you think you may have seen it
 9 before?
 10 A. I don't recognize the document. I
 11 don't know how else to say it.
 12 Q. Does this appear to be an
 13 application for a trademark?
 14 A. Honestly I wouldn't know because
 15 I've never seen one. So I don't know.
 16 MR. BARSKY: I can stipulate that
 17 this appears to be a copy of an application that
 18 one of my partners filed, to make it easier for
 19 you.
 20 MS. MCARDLE: I appreciate that.
 21 Q. At the top do you see where it says
 22 "file date"?
 23 A. Yes.
 24 Q. What's the date listed there?
 25 A. November 9, 2012.

1 Q. If you look at the bottom it says
 2 "literal mark element," and you see it says
 3 Green Ivy there, correct?
 4 A. Yes.
 5 Q. Is that the trademark being
 6 registered?
 7 MR. BARSKY: Object to the form.
 8 You may answer.
 9 A. Sorry. Sorry, I'm unfamiliar with
 10 this process. It says "Green Ivy" next to
 11 "literal mark element." I have no idea what
 12 "literal mark" means.
 13 Q. But it does say Green Ivy?
 14 A. It does.
 15 Q. On the next page it says "current
 16 owner information," correct?
 17 A. It does.
 18 Q. And the name listed there is Green
 19 Ivy Holdings LLC, correct?
 20 A. Yes.
 21 Q. What I'd like you to focus on is
 22 down in the next section, it says "goods and
 23 services" and it lists a number of services
 24 there. Do you see that?
 25 A. Yes.

1 Q. I'm hoping you can help me
 2 understand what was meant by some of these
 3 listings here. Do you see in the first --
 4 second box there it says "office administration
 5 services for schools"?
 6 A. Sorry, am I in the right place?
 7 MR. BARSKY: Do you mind if I --
 8 MS. MCARDLE: Sure.
 9 MR. BARSKY: She's talking about
 10 right here.
 11 Q. Under the goods and services.
 12 A. I'm with you now. "Office
 13 administration services for schools."
 14 Q. Can you explain to me what GIH
 15 meant by "office administration services for
 16 schools" when it wrote that?
 17 A. I can't.
 18 Q. Does GIH provide office
 19 administration services for schools?
 20 A. I do not know what that phrase
 21 means. I didn't write it and I don't know what
 22 it means.
 23 Q. So separately from this document
 24 then, do you understand -- do you have an
 25 understanding of what office administration

1 services for schools means?
 2 A. I don't. The word "office" is
 3 confusing to me. I know what administration
 4 services for schools means.
 5 Q. Can you think of any services
 6 provided by GIH that could fit within a
 7 description of office administration services
 8 for schools?
 9 A. I can't because I don't understand
 10 the phrase. Sorry. Don't mean to be obtuse but
 11 I just don't understand what it means.
 12 Q. You're the founder of Green Ivy
 13 Holdings, correct?
 14 A. I am.
 15 Q. And you oversee all of its
 16 day-to-day operations?
 17 A. I do.
 18 Q. But you can't think of a single
 19 service that it provides that would fit within
 20 the potential definition in your own mind of
 21 office administration services for schools?
 22 A. I can guess. I just never heard
 23 that phrase before, and I developed schools for
 24 over a decade.
 25 Q. This document was filed by GIH,

1 right?

2 A. Yes, it was. According to you. I
3 didn't file it so I don't know. But yes. I
4 think what it means is running schools. If
5 that's what it means, then that's what we do.

6 Q. What do you mean by "running
7 schools"?

8 A. Developing a school and operating a
9 school.

10 Q. Can you give me a bit more of a
11 description of what you mean by "developing a
12 school"?

13 A. Building a school, hiring teachers,
14 choosing or designing a curriculum, enrolling
15 students and turning the lights on.

16 Q. And by "turning the lights on,"
17 what do you mean by that?

18 A. Purchasing utilities so that the
19 school can function day-to-day.

20 Q. When you say "running a school,"
21 what do you mean by that?

22 A. Overseeing the operation of the
23 school, making sure that everybody does the job
24 they were hired to do, protecting the health and
25 safety of the children, guarding the promises

1 made by the school related to curriculum, the
2 children's learning experience, things like
3 that.

4 Q. If you look further down from that
5 office administration box, you'll see there's a
6 box that begins "educational services, namely
7 providing pre kindergarten through 12th grade
8 classroom instruction." Is that correct?

9 A. That's what it says, yes.

10 Q. Does GIH provide pre kindergarten
11 through 12th grade classroom instruction?

12 A. Currently we provide pre K and
13 kindergarten instruction. And we are planning
14 to provide pre kindergarten through 12th grade
15 classroom instruction.

16 Q. Are there any other educational
17 services provided by GIH other than providing
18 pre kindergarten through 12th grade classroom
19 instruction?

20 A. Currently, yes, we offer pre K
21 through kindergarten instruction currently. And
22 enrichment activity, like after-school programs
23 and summer camp.

24 Q. Are there any other educational
25 services provided by GIH?

1 A. Currently there are no other
2 services provided.

3 Q. Are there any other educational
4 services that GIH intends to provide in the
5 future?

6 A. Yes.

7 Q. And what are those?

8 A. So education for children age 2
9 through 12th grade. More enrichment, products,
10 which we have not yet developed, additional
11 schools. Let's see. Developing curriculum for
12 others, providing live and online educational
13 services such as workshops and seminars in the
14 field of primary education for grades pre K
15 through 12th grade.

16 Q. And for those last few you were
17 just reading the same box, is that correct?

18 A. Yes, that's right.

19 Q. So can you help me understand what
20 "developing curriculum for others" means?

21 A. Yes. If there is a school that
22 would like for us to -- let's say there is an
23 entity that wants to develop a new school and
24 they seek us out for help with developing a
25 curriculum because they like what we're doing in

1 one of our own schools, we would offer that
2 service.

3 Q. How would you offer that service?

4 A. I don't understand the question.

5 Q. If someone approached you and asked
6 you for assistance in the curriculum
7 development, how would you go about providing
8 that assistance?

9 A. I would ask them what they would
10 like and then we would design a program.

11 Q. Perhaps it's just that I'm a lawyer
12 and not an educator. Could you help me
13 understand exactly what kind of a process that
14 would employ?

15 A. Like most consulting experiences,
16 it would involve a lot of conversation and
17 analysis of need.

18 Q. You would view your role in that
19 sense as a consultant to that other school?

20 A. I don't know if I would call it a
21 consultancy. I used the word "consultancy"
22 because it's a comparison, giving an example of
23 how that process is done. Would it be a
24 consultancy? I can't say that. It really
25 depends on the business relationship with that

<p style="text-align: right;">Page 41</p> <p>1 entity.</p> <p>2 Q. Okay, but just to make sure that I</p> <p>3 understand it, it would be a business</p> <p>4 relationship with another school in which they</p> <p>5 ask GIH for assistance in developing their</p> <p>6 curriculum, is that correct?</p> <p>7 A. Well, I'm projecting a scenario</p> <p>8 that doesn't exist and the other entity doesn't</p> <p>9 yet exist. So it's all kind of hypothetical. I</p> <p>10 mean, I -- hypothetically it could be a</p> <p>11 situation where they hire Green Ivy to advise</p> <p>12 them on developing a curriculum. It could be a</p> <p>13 situation where they hire us to design the</p> <p>14 curriculum. It could be a partnership where we</p> <p>15 become business partners in the delivery of that</p> <p>16 program or curriculum. It could be a situation</p> <p>17 where we acquire them and deliver it ourselves</p> <p>18 in their -- within their organization.</p> <p>19 So I can think of at least those</p> <p>20 examples, probably many more through which we</p> <p>21 would have a relationship through which we would</p> <p>22 then deliver developing curriculum for others.</p> <p>23 So there are lots of different ways it could</p> <p>24 manifest.</p> <p>25 Q. And aside from curriculum</p>	<p style="text-align: right;">Page 43</p> <p>1 experience for the people who are our patrons,</p> <p>2 Green Ivy patrons. So that's one example.</p> <p>3 Q. How about the delivery of these</p> <p>4 enrichment programs, is that a field where you</p> <p>5 would partner with another school or other</p> <p>6 group?</p> <p>7 A. Yes, the example I just gave you is</p> <p>8 an example of an enrichment program because it</p> <p>9 isn't part of our main school day curriculum.</p> <p>10 And I can see that happening with a number of</p> <p>11 different partners.</p> <p>12 Q. How about seminars for parents.</p> <p>13 A. We haven't done much -- we haven't</p> <p>14 talked much about seminars for parents, but I</p> <p>15 can see seminars for parents becoming more of a</p> <p>16 part of what we want to do. There just hasn't</p> <p>17 been a lot of talk about it yet.</p> <p>18 Q. In the application where it says</p> <p>19 "providing live and online educational services;</p> <p>20 namely, providing classes, workshops and</p> <p>21 seminars," do you see that?</p> <p>22 A. Mm-hmm, yes.</p> <p>23 Q. What kind of classes, workshops and</p> <p>24 seminars do you currently provide?</p> <p>25 A. So -- well, first of all, we don't</p>
<p style="text-align: right;">Page 42</p> <p>1 development, are there any other services in</p> <p>2 which you would work with others?</p> <p>3 A. Well, I think we would work with</p> <p>4 others in any service, so yes.</p> <p>5 Q. What other services could there be?</p> <p>6 MR. BARSKY: Object to the form.</p> <p>7 You can answer.</p> <p>8 A. So I think you're asking what other</p> <p>9 services would involve working with others.</p> <p>10 Q. I'll rephrase.</p> <p>11 A. Okay.</p> <p>12 Q. What other services provided by GIH</p> <p>13 do you envision potentially working with third</p> <p>14 party groups in delivering?</p> <p>15 A. Third party groups would be people</p> <p>16 not working for Green Ivy?</p> <p>17 Q. Yes.</p> <p>18 A. So let's see, hypothetically, one</p> <p>19 example, Jazz At Lincoln Center. Jazz At</p> <p>20 Lincoln Center agreed to perform family concerts</p> <p>21 for the families who attend our schools. It</p> <p>22 isn't a business relationship right now, but I</p> <p>23 can see it being a business relationship at some</p> <p>24 point down the line where we both are</p> <p>25 co-sponsoring delivery of some program or</p>	<p style="text-align: right;">Page 44</p> <p>1 provide any services online currently. So I</p> <p>2 just want to clarify that. Are you asking me</p> <p>3 about online services?</p> <p>4 Q. Sure.</p> <p>5 A. Right now we don't provide any</p> <p>6 services online.</p> <p>7 Did you have a question about -- do</p> <p>8 you want me to talk about something besides</p> <p>9 online services?</p> <p>10 Q. Sure. The other option here is</p> <p>11 live, and we've discussed other classes and</p> <p>12 enrichment programs. Aside from what we've</p> <p>13 already discussed, are there any other classes,</p> <p>14 workshops and seminars currently offered by GIH?</p> <p>15 A. We don't offer any other classes or</p> <p>16 workshops aside from the ones that I've</p> <p>17 mentioned to you.</p> <p>18 Q. Do you intend to offer additional</p> <p>19 live workshops aside from those we've already</p> <p>20 discussed?</p> <p>21 A. Yes, we do.</p> <p>22 Q. What are those?</p> <p>23 A. Well, we haven't planned them all</p> <p>24 yet. We would like to offer workshops and</p> <p>25 classes in cooking and dance and theater and</p>

<p style="text-align: right;">Page 45</p> <p>1 athletics and an endless number of subjects that 2 we refer to as enrichment. Things that are not 3 covered typically in our standard school day. 4 Q. Do you intend to offer online 5 educational classes and workshops as well? 6 A. We do. 7 Q. What kinds of online classes and 8 workshops do you intend to offer? 9 A. No plan yet. Just a general 10 target. 11 Q. Would those online classes mirror 12 your live classes or would they have different 13 content? 14 A. There is no plan. The only thing 15 that we know is that we would like to offer 16 services online. 17 Q. And when you say "services online," 18 what do you mean by that? 19 A. The only thing we know is that we'd 20 like to offer workshops, classes, resources, 21 information, instruction, networks, networking 22 opportunities online. 23 Q. Who would be the target audience 24 for those online classes? 25 A. Parents.</p>	<p style="text-align: right;">Page 47</p> <p>1 just not there yet. It just depends on the 2 circumstances when we get there. 3 Q. Do you envision communicating those 4 recommendations solely through your school? 5 A. I really don't know because we're 6 just too far away from that right now. I just 7 don't know what the format would be. 8 Q. Is the intended audience for those 9 kinds of recommendations broader than the 10 parents of students at Green Ivy Schools? 11 A. Yes. 12 Q. What would be the audience for 13 those recommendations? 14 A. I don't see a limit on that 15 audience. 16 Q. In the description that you just 17 read, it says "namely, software, toys, books, 18 classroom materials and lessons plans," is that 19 correct? 20 A. Yes. Are you asking me is that 21 what it says? 22 Q. Yes. 23 A. Yes. 24 Q. Do you have any plan as to what 25 software, toys, books, classroom materials and</p>
<p style="text-align: right;">Page 46</p> <p>1 Q. If you could go down to the third 2 box listing goods and services in the 3 application we've just been reviewing, Exhibit 4 1, could you read me the description in that 5 box, please, beginning with "testing." 6 A. "Testing, analysis and evaluation 7 of the goods and services of others for the 8 purpose of certification; namely software, toys, 9 books, classroom materials and lesson plans in 10 the fields of education and parenting." 11 Q. Can you explain to me what is meant 12 by "testing, analysis and evaluation of goods 13 and services of others"? 14 A. Yes. So what we would like to do 15 is to become an organization that parents trust 16 when seeking out resources. So we would like to 17 develop the brand so that parents find value in 18 any product or service we recommend. 19 Q. And how would you go about making 20 those recommendations? 21 A. I don't know yet because we're not 22 there yet. 23 Q. Do you envision communicating those 24 recommendations through newsletters? 25 A. I really don't know because we're</p>	<p style="text-align: right;">Page 48</p> <p>1 lesson plans would be reviewed? 2 A. No, we don't. 3 Q. How would you go about determining 4 which of those items would be reviewed? 5 A. I don't know because we're not 6 there yet. 7 Q. If you'd go down to the next 8 section where it says "goods and services 9 classification." 10 A. Mm-hmm. 11 Q. It says, "First use date, none," is 12 that correct? 13 A. It does say that, yes. 14 Q. And it says that for all three of 15 the class lines. 16 A. Yes, it does. 17 Q. And it says, "First use in commerce 18 state, none," correct? 19 A. Yes. 20 Q. And it says that for all three of 21 the class lines? 22 A. Yes. 23 Q. At this time the mark Green Ivy had 24 not been used by GIH, is that correct? 25 MR. BARSKY: Object to the form.</p>

1 A. I don't know what "at this time"
2 means.
3 Q. Well, we talked about the date of
4 the application being November 9, 2012, is that
5 correct?
6 A. We did talk about the date of the
7 application. Okay. So what was the question
8 again, I'm sorry?
9 Q. At this time GIH represented that
10 it had not used the mark.
11 A. Yes, that's right.
12 MR. BARSKY: At the time of the
13 application.
14 Q. At the time of the application.
15 A. Mm-hmm, yes.
16 Q. How soon after the application did
17 GIH begin using Green Ivy?
18 A. I don't know, I'd have to look back
19 at the e-mails. I don't know off the top of my
20 head.
21 Q. What e-mails are you referring to
22 when you say you'd have to look back at the
23 e-mails?
24 A. I'd have to look back at my
25 e-mails, generally speaking, to see when we

1 first started using that name. I don't
2 remember.
3 Q. Did you search for any e-mails in
4 connection with this action?
5 A. Yes.
6 Q. What e-mails did you search for?
7 A. I searched first for the e-mails
8 that I sent to my friends Nancy and Emma, people
9 who helped me come up with a name.
10 Q. Did you search for any other
11 e-mails?
12 A. I looked at every e-mail within
13 that time frame to see when we first started
14 telling people Green Ivy, we're sharing the name
15 Green Ivy.
16 Q. And did you provide those e-mails
17 to counsel?
18 A. Yes.
19 Q. Do you remember approximately how
20 many e-mails --
21 A. Sorry, no, I don't.
22 Q. When you say you looked back
23 through the e-mails for a given time frame, do
24 you recall what time frame that was?
25 A. I don't. It would be before this

1 filing date.
2 Q. We'll come back to that in a
3 moment.
4 MR. BARSKY: If you want I'll
5 stipulate that there are no e-mails that she
6 forwarded to me that we did not forward on to
7 you. If that's what you're getting at.
8 MS. MCARDLE: Thanks.
9 Q. But you do believe that there are
10 e-mails that would reflect when you first used
11 this name -- used Green Ivy?
12 A. That I don't know. I don't know if
13 the e-mail would reveal the day that we went
14 public with the name. I think that's what
15 you're asking me.
16 Q. The first time you used the mark,
17 correct.
18 A. Do you mean used the mark with
19 someone outside of our internal organization, or
20 do you mean used the mark internally with people
21 who worked for me?
22 Q. Why don't we start with externally.
23 A. I don't know. I'd have to look at
24 the e-mails.
25 Q. But any e-mail that you located

1 that included the use of the mark you provided
2 to counsel, is that correct?
3 A. Oh, yes, mm-hmm.
4 Q. Is that true of the internal use of
5 the mark as well?
6 A. Yes.
7 MS. MCARDLE: Let's mark another
8 document. I'll ask the court reporter to mark
9 the second application made by GIH -- the second
10 trademark application made by GIH as Exhibit 2.
11 (Exhibit 2 for identification,
12 Trademark Application #2)
13 MS. MCARDLE: Can we also stipulate
14 that this is the second application?
15 MR. BARSKY: Just give me a second
16 to take a look at it.
17 I can't stipulate that it's the
18 second. I don't know what order that they were
19 filed.
20 MS. MCARDLE: But another
21 application?
22 MR. BARSKY: We can stipulate that
23 this appears to be a copy of a trademark
24 application that one of my partners filed for
25 the little mark Green Ivy Learning on behalf of

1 Green Ivy Holdings.

2 Q. Ms. Jones, have you ever seen this
3 document before?

4 A. No.

5 Q. You see that the filing date at the
6 top is November 9, 2012 as well, is that
7 correct?

8 A. Yes.

9 Q. That's the same date as was on the
10 last application that we reviewed, Exhibit 1,
11 correct?

12 A. Yes.

13 Q. At the bottom of the page it says
14 "literal mark element, Green Ivy Learning,"
15 correct?

16 A. Yes.

17 Q. On the second page it lists a
18 number of goods and services, correct?

19 A. Yes.

20 Q. Do those appear to be the same
21 services listed on the prior application? You
22 can take whatever time you need to review them.

23 A. Yes, they do appear to be the same.

24 Q. Is it correct that GIH intends to
25 provide the same services as those we just

1 discussed in connection with the Green Ivy mark
2 in connection with the Green Ivy Learning mark?

3 A. Yes.

4 Q. Is there any way in which the
5 services to be offered under the Green Ivy
6 Learning mark will be different from what's
7 offered on the Green Ivy mark?

8 A. Not to my knowledge.

9 Q. And the next section, goods and
10 services classification, here again it states
11 "first use date, none" for all three categories
12 of class, is that correct?

13 A. Yes.

14 Q. And it also states none for first
15 use in commerce date for all three classes,
16 correct?

17 A. Yes.

18 Q. At this time GIH had not used the
19 Green Ivy Learning mark, correct?

20 A. Correct, as of the date of the
21 application.

22 Q. We'll quickly move through the
23 third application.

24 MS. MCARDLE: If you could mark
25 this document as Exhibit 3, please.

1 (Exhibit 3 for identification,
2 Trademark Application #3)

3 MR. BARSKY: I can stipulate again
4 that this is a copy of a -- appears to be a copy
5 of the information from the application that my
6 partner filed for Green Ivy Schools on behalf of
7 Green Ivy Holdings.

8 Q. Ms. Jones, have you seen this
9 document before?

10 A. No.

11 Q. Just to be clear, you said that you
12 were aware that these documents were being
13 filed, correct?

14 A. Yes.

15 Q. Did you speak to anyone about the
16 contents of the filing before they were filed?

17 MR. BARSKY: Object to the extent
18 that it would require you to disclose
19 attorney-client privilege. You can say that you
20 spoke to anybody, but don't talk about, if it
21 was anybody at my firm, the substance of the
22 conversation.

23 A. I forgot the question.

24 Q. Did you speak with anyone about the
25 contents of the applications before they were

1 filed?

2 MR. BARSKY: Same objection. You
3 may answer.

4 A. Okay, I spoke to Jonathan about the
5 trademark applications and their content.

6 Q. And do you recall what you spoke to
7 Jonathan about?

8 A. Vaguely. The focus of our
9 conversation was on the services that we would
10 like to offer.

11 Q. As you recall those conversations,
12 would those be reflected in the services that we
13 just discussed in the prior two applications?

14 A. Yes.

15 Q. So on this application, you see the
16 filing date at the top right is again
17 November 9th, 2012, correct?

18 A. Yes.

19 Q. And the literal mark element is
20 Green Ivy Schools, correct?

21 A. Yes.

22 Q. And on the next page, in the goods
23 and services box, the services listed are
24 different from the last two applications,
25 correct?

1 A. Yes, they're different.
 2 Q. How are the services intended to be
 3 provided for Green Ivy Schools different from
 4 those intended to be provided under the Green
 5 Ivy or Green Ivy Learning marks?
 6 A. I'm reading the Green Ivy Learning
 7 application description text under goods and
 8 services, and then I'm reading the goods and
 9 services under Green Ivy Schools. It looks like
 10 the key distinction is that for Green Ivy
 11 Schools it says "reviewing and certifying
 12 educational and parenting material, including
 13 software, toys, books, classroom materials and
 14 lesson plans." Although I think that's covered
 15 under the second paragraph in description text
 16 for Green Ivy Learning. So I don't see any
 17 substantive differences, just the placement of
 18 the text is a little bit different.
 19 Q. In your understanding of the
 20 services actually offered or intended to be
 21 offered under the mark Green Ivy Schools, did
 22 those differ from the services to be provided
 23 under the Green Ivy Learning or Green Ivy marks?
 24 A. Not to my knowledge they don't.
 25 Q. So are discussion of the prior two

1 applications, the services offered there, that
 2 same discussion would apply to the Green Ivy
 3 Schools mark as well?
 4 A. To my knowledge, yes.
 5 Q. Before we move on, in Exhibit 3,
 6 the next books, good and services
 7 classification, it again says "first use date,
 8 none," correct?
 9 A. Yes.
 10 Q. And "first used in commerce date,
 11 none."
 12 A. Mm-hmm.
 13 Q. So at the time of this application
 14 there had been no use by GIH of the Green Ivy
 15 Schools mark, is that correct?
 16 A. That's correct.
 17 Q. And the first use following this
 18 application would be reflected in the e-mails
 19 and other documents you provided to your
 20 counsel, is that correct?
 21 A. Yes, that's right.
 22 MS. MCARDLE: Why don't we take a
 23 quick break.
 24 (Recess taken.)
 25 BY MS. MCARDLE:

1 Q. When did Green Ivy Holdings begin
 2 soliciting or seeking out students for its
 3 schools?
 4 A. Let's see, it would be October -- I
 5 believe it was December of 2012.
 6 Q. And was that in connection with
 7 Battery Park Montessori?
 8 A. Yes.
 9 Q. At that time was the name Green Ivy
 10 used in connection with Battery Park Montessori?
 11 A. Can you define what you mean by
 12 "used"?
 13 Q. When GIH was soliciting students,
 14 was the name Battery Park Montessori used or was
 15 Green Ivy used?
 16 A. I believe we only used Battery Park
 17 Montessori.
 18 Q. Did there come a time where that
 19 changed and you began using Green Ivy?
 20 A. Yes. At some point we started
 21 saying Battery Park Montessori, a Green Ivy
 22 school. When was that? I'm getting good. I
 23 mean, I don't know exactly, I'd have to look
 24 back at those communications to find it. I
 25 don't know exactly. Certainly by the opening

1 day of the school, September 2013.
 2 Q. How about for Pine Street School,
 3 when did you begin seeking students for that
 4 school? Or if you have yet.
 5 A. Oh, yes. We have. So Pine Street
 6 School we started -- Pine Street School we
 7 started seeking students around September 2013.
 8 And we were calling it a Green Ivy school.
 9 Q. When you say when we were
 10 discussing seeking out students, how does Green
 11 Ivy Holdings go about seeking students for its
 12 schools?
 13 A. Well, with Battery Park Montessori
 14 we did postcards that we -- we made postcards
 15 and distributed them in the neighborhood. We
 16 sent out an ad via a local mom's e-mail group
 17 called HRP Mamas. We put an ad in the local
 18 paper. And I mean it's very local. It's called
 19 the Broad Sheet. So the Broad Street, and that
 20 was about for Battery Park Montessori in terms
 21 of broadcasting. A lot of it was word of mouth.
 22 Q. Just to go back to the Broad Sheet,
 23 what's the circulation area for the Broad
 24 Street? You said very local.
 25 A. Lower Manhattan, Battery Park City,

1 Tribeca and the financial district.

2 Q. Other than the ad in the Broad
3 Sheet and the ad on HRP Mammals, were there any
4 other ads?

5 A. No.

6 Q. When you say word of mouth, is that
7 primarily spoken word of mouth or does that
8 include e-mails or other communications?

9 A. I don't know, but I can say that a
10 lot of parents came to us because they heard
11 about us from another parent.

12 MS. MCARDLE: I'm going to ask the
13 court reporter to mark the next document as
14 Exhibit 4.

15 (Exhibit 4 for identification,
16 Pine Street School Design Plan)

17 Q. Do you recognize in document?

18 A. I do.

19 Q. What is this document?

20 A. This is a document that our
21 architectural firm created showing our planned
22 design for the school.

23 Q. Which school is that?

24 A. Oh, Pine Street School.

25 Q. And this is dated August 9th, 2013,

1 correct?

2 A. Yes.

3 Q. Is Perkins Eastman the name of the
4 architectural firm?

5 A. Yes.

6 Q. When was Perkins Eastman hired by
7 GIH?

8 A. Fall of 2012 I think. I'm not sure
9 exactly what month but the fall of 2012.

10 Q. Who would have received this
11 document?

12 A. Me, Jonathan, the woman who is the
13 director of construction and facilities, Wendy
14 Grunseich. Perkins Eastman. We had and have an
15 owner's rep firm called TTFR, so anybody working
16 on that team for TTFR.

17 Q. Can you explain to me what you mean
18 by an owner's rep firm?

19 A. An owner's rep firm in this case is
20 a firm that that represents us in discussions
21 with the construction company and anyone
22 associated with the building of the school.

23 Q. Aside from the individuals and
24 company you just named, is there anyone else who
25 would have received this document?

1 A. Our financial director, Barb
2 Ristau, my executive assistant, Amy Ogbonna.
3 That was our internal team. I think that's it.

4 There would have been -- I have
5 also shown this document to the director of Pine
6 Street School, the woman I mentioned earlier,
7 Eileen Baker. I have shown parts of this
8 document to parents that were interested in the
9 school, not the document in its entirety.

10 Q. Which parts?

11 A. Generally speaking, any pictures of
12 design. I didn't share a lot of floor plans and
13 things like that.

14 Q. What's the purpose of showing the
15 pictures to parents?

16 A. To convince them to enroll in the
17 school.

18 Q. And how do you go about showing the
19 pictures to parents?

20 A. I have done it two ways. One is
21 through a go-to meeting, conference call with
22 parents by invitation. Virtually walking them
23 through the pages.

24 Q. When you say "by invitation," that
25 is an invitation from you to the parents?

1 A. Right.

2 Q. How do you --

3 A. In other words, not an open call.

4 Q. How do you determine who to invite
5 to those go-to meeting calls?

6 A. Well, there's only one and they
7 expressed an interest in the school and I
8 invited them to this virtual meeting and they
9 accepted and they logged on.

10 And then I had a meeting with one
11 couple that was interested in the school and I
12 had it printed and I showed it to them.

13 Q. Have there been any other in-person
14 meetings with parents?

15 A. Yes, but not involving this
16 document.

17 Q. Just one involving this document?

18 A. Mm-hmm. Mm-hmm.

19 Q. And did you provide this document
20 to your counsel in connection with this
21 litigation?

22 A. I didn't but I think Jonathan did.

23 Q. Did you discuss the documents that
24 were being provided to your counsel with
25 Jonathan?

1 A. No, I didn't.
 2 Q. What's the basis for your
 3 understanding that Jonathan provided this to
 4 your counsel?
 5 A. I said I think I did -- I think he
 6 did. There's no basis beyond that.
 7 Q. Aside from yourself and Jonathan,
 8 was there anyone else at GIH that searched for
 9 documents and provided them to counsel?
 10 A. No, not to my knowledge.
 11 Q. I believe you testified earlier
 12 that you are involved in the marketing and
 13 promotion of GIH's services, is that correct?
 14 A. Yes.
 15 Q. Is there anyone else that is
 16 involved in the marketing and promotion of GIH's
 17 services?
 18 A. Yes.
 19 Q. Who are those people?
 20 A. Everyone in the organization is
 21 involved in that.
 22 Q. Could you describe briefly what
 23 your marketing and promotional efforts include.
 24 A. Okay. So things I've mentioned
 25 before, postcards being distributed in the area,

1 blast e-mail ads on HRP Mammias. E-mail
 2 notifications or announcements to our mailing
 3 list, so our mailing list is made up of anyone
 4 who inquires, crosses our threshold in any way.
 5 Whether they sign up for something or not they
 6 get into our database. So all those people.
 7 Ads in the Broad Sheet. Let's see,
 8 what else. I mean, we consider our Facebook a
 9 marketing tool, so our Facebook posts are
 10 intended to be part of our marketing strategy.
 11 Events. So we host a number of events. We call
 12 them social events, and we invite parents who
 13 are enrolled in the school, parents who are
 14 thinking about enrolling in the school,
 15 community members like the ones I mentioned
 16 before, local store owners, realtors, admissions
 17 consultants, anyone who might have an interest
 18 in what we're doing. We use those as marketing
 19 experience where we promote the school and
 20 promote what we're doing in the school.
 21 Information sessions, which during
 22 the height of what we call the admission season,
 23 which runs from about November to March, we host
 24 almost weekly information sessions where we
 25 invite parents to come and learn about the

1 schools. Open house events both for the school
 2 and for enrichment programming. I think that
 3 covers it.
 4 Q. Do you attend any conferences on
 5 behalf of GIH?
 6 A. I have only attended one to date,
 7 and that was the American Montessori Society
 8 Montessori annual conference in Orlando last
 9 year.
 10 Q. Was it just you that attended that
 11 conference on behalf of GIH?
 12 A. Yes. I primarily went for
 13 recruitment, to recruit teachers.
 14 Q. When you say primarily, what were
 15 the other purposes?
 16 A. To network a little bit, spread the
 17 word about what we're doing.
 18 Q. Who were you networking with at
 19 that conference?
 20 A. Mainly the people who lead other
 21 Montessori schools in New York City. One of
 22 those organizations hosted the conference, so it
 23 was a way for me to kind of build relationships.
 24 Q. What's the name of that
 25 organization?

1 A. I knew you were going to ask me
 2 that. For some reason I'm spacing out right
 3 now. It will come to me in a minute. It's a
 4 name I say once a month, but now for some reason
 5 I can't remember it. Big Montessori school
 6 that's been in New York City for a long time.
 7 Q. Do you attend any school
 8 information programs or fairs?
 9 A. I haven't really in the last two or
 10 three years. I haven't done much of that. I
 11 can't remember the last one I attended.
 12 Q. Has anyone else from GIH attended
 13 those?
 14 A. Yes. The director of Battery Park
 15 Montessori.
 16 Q. And when the director attends those
 17 school information programs or fairs, what is
 18 the purpose of Sara attending?
 19 A. Why is she attending? Networking.
 20 To build a relationship with other people from
 21 other schools or other organizations that might
 22 be good partners for us. To learn something, to
 23 spread the word about what we're doing, to
 24 recruit teachers for the school.
 25 Q. Who is she mainly speaking to at

<p style="text-align: right;">Page 69</p> <p>1 these?</p> <p>2 A. I don't know because I'm not with</p> <p>3 her.</p> <p>4 Q. What types of other groups attend</p> <p>5 these conferences?</p> <p>6 A. Well, there have been many</p> <p>7 conferences so it depends on which conference</p> <p>8 we're talking about. For instance, we attended</p> <p>9 the NAEYC, National Association For the</p> <p>10 Education of Young Children. And at the</p> <p>11 conference she's speaking primarily to directors</p> <p>12 of other schools, to the leadership at NAEYC,</p> <p>13 which is an accrediting organization for early</p> <p>14 childhood education, to prospective teachers.</p> <p>15 That would be my guess.</p> <p>16 Q. Are there ever parents at these</p> <p>17 conferences?</p> <p>18 A. I would be surprised. It's not</p> <p>19 common.</p> <p>20 Q. So to the extent you say she's</p> <p>21 spreading the word about your work, that's in</p> <p>22 the search for partners for curriculum</p> <p>23 development and the other services we discussed</p> <p>24 earlier, is that correct?</p> <p>25 A. No, that's not correct. So her</p>	<p style="text-align: right;">Page 71</p> <p>1 A. We don't foster those relationships</p> <p>2 right now because it's not our focus right now.</p> <p>3 That plan for offering services to other</p> <p>4 entities that might need curriculum development</p> <p>5 is a long-term plan. It's not meant to be part</p> <p>6 of our immediate focus.</p> <p>7 Q. As a part of that long-term plan do</p> <p>8 you have any plans for how GIH will go about</p> <p>9 creating those relationships and obtaining that</p> <p>10 business?</p> <p>11 A. Don't have any plans yet because</p> <p>12 it's just not the focus.</p> <p>13 Q. Aside from the Broad Sheet and HRP</p> <p>14 Mammals, there's no other advertisements that GIH</p> <p>15 runs, correct?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Are there any plans to advertise in</p> <p>18 other locations?</p> <p>19 A. Not currently, no.</p> <p>20 Q. In the future will GIH be</p> <p>21 advertising in other venues?</p> <p>22 A. I think so. But I don't know that</p> <p>23 plan yet.</p> <p>24 Q. What would cause GIH to advertise</p> <p>25 in other publications?</p>
<p style="text-align: right;">Page 70</p> <p>1 purpose as the director of Battery Park</p> <p>2 Montessori would be to build relationships,</p> <p>3 professional relationships, collegial</p> <p>4 pedagogical relationships. So she's looking for</p> <p>5 heads of other schools so that she can share</p> <p>6 practices, share advice and insights, gain</p> <p>7 advice and insights. In some cases even share</p> <p>8 teachers because there is a practice among those</p> <p>9 schools of recommending teachers who want to</p> <p>10 move, maybe relocate or something like that.</p> <p>11 Her primary goal is really very school specific.</p> <p>12 Q. It would be additional benefit,</p> <p>13 however, if one of those schools also sought out</p> <p>14 GIH for curriculum development or some other</p> <p>15 assistance, correct?</p> <p>16 A. Would it be an additional benefit?</p> <p>17 Well, it just depends on what they want -- it</p> <p>18 just depends on the relationship.</p> <p>19 Q. How does GIH go about creating</p> <p>20 relationships with other schools or other third</p> <p>21 parties in order to develop -- strike that. How</p> <p>22 does GIH go about developing relationships with</p> <p>23 third parties so that it can potentially assist</p> <p>24 them in curriculum development or other</p> <p>25 services?</p>	<p style="text-align: right;">Page 72</p> <p>1 A. What would cause us to advertise.</p> <p>2 Lack of responsiveness to ads where we're</p> <p>3 putting them now.</p> <p>4 Q. And when you say "lack of</p> <p>5 responsiveness," who are you targeting?</p> <p>6 A. Parents not enrolling their</p> <p>7 children in either our school program or our</p> <p>8 enrichment program.</p> <p>9 Q. Do you work with an ad agency?</p> <p>10 A. We don't.</p> <p>11 Q. Who develops the advertisements you</p> <p>12 run?</p> <p>13 A. Me.</p> <p>14 Q. How do you go --</p> <p>15 A. That's why they're so bad.</p> <p>16 Q. How do you go about developing the</p> <p>17 advertisements?</p> <p>18 A. I pull out an Adobe Acrobat and I</p> <p>19 look for images that we are okay to use that we</p> <p>20 generated internally, or a good stock photo.</p> <p>21 And I build an ad, I create the copy, I put the</p> <p>22 images together.</p> <p>23 Q. Has GIH ever used a publicist?</p> <p>24 A. We haven't used a publicist yet.</p> <p>25 We do have a PR firm.</p>

1 Q. What's the name of the PR firm?
 2 A. Cooper Katz.
 3 Q. When did you hire Cooper Katz?
 4 A. I think starting -- I believe we
 5 hired them in the summer of 2013.
 6 Q. And what kind of services does
 7 Cooper Katz provide to GIH?
 8 A. Well, the services to date were
 9 media training for me, help in developing the
 10 messaging, what we would say about our brands,
 11 about our services and products, our schools.
 12 They have helped us with development of our
 13 focus and targets for enrichment programming,
 14 who we would seek out and which kinds of
 15 programs we would offer. They arranged an
 16 interview for me with a local -- another local
 17 newspaper, it's called the Downtown Express.
 18 Q. Was there an article published as a
 19 result?
 20 A. No, it was not written.
 21 They have coached us in thinking
 22 about ways to promote the school and get the
 23 word out about -- well, the schools I should
 24 say, both schools.
 25 Q. And have they provided you any

1 advice specific to Green Ivy itself as distinct
 2 from the two schools?
 3 A. Yes. They guided us on ways to
 4 promote Green Ivy as the umbrella organization
 5 for Battery Park Montessori and Pine Street
 6 School.
 7 Q. Is that the way you understand
 8 Green Ivy to operate, Green Ivy is the umbrella
 9 organization for the two schools?
 10 A. Absolutely, mm-hmm.
 11 Q. I'm just going to go back to a few
 12 of the things about the advice that Cooper Katz
 13 has provided you.
 14 A. Sure, sure.
 15 Q. You said that they provided you
 16 some advice and messaging.
 17 A. Yes.
 18 Q. What do you mean by messaging?
 19 A. What we say about our organization.
 20 Q. Do you recall what that advice
 21 included?
 22 A. It's pretty substantial. I can't
 23 remember it verbatim. There's pages of it.
 24 Q. Did they give you direction on what
 25 messaging to focus on in connection with the

1 schools?
 2 A. Oh, yes. That was the primary
 3 intent.
 4 Q. Can you give me an example?
 5 A. One of the things that is core to
 6 our organization and to what we believe about
 7 learning is engaged experiential learning. So
 8 their advice was to focus on that, present that
 9 as one of the leading components of what we do.
 10 Q. And did they give you any specific
 11 advice in connection with the umbrella
 12 organization, with Green Ivy, in terms of the
 13 messaging?
 14 A. What I just said was advice
 15 specific to Green Ivy. In other words, they
 16 guide us on what makes a school a Green Ivy
 17 school. Because the intent is to develop
 18 multiple schools with that brand.
 19 Q. So the advice they give is sort of
 20 regardless of what the name is, what the concept
 21 of the school is that you'll be bringing to the
 22 name, is that correct?
 23 A. They guide us on how to define the
 24 Green Ivy brand of schools that we're
 25 developing. In the minds of parents and anyone

1 else who might have an interest in us.
 2 Q. That leads to my next question,
 3 which is, you said that they give you advice on
 4 developing the targets for the programming
 5 provided by the schools. What was the advice
 6 about the targeting for --
 7 A. When I said targeting I was talking
 8 and thinking specifically about our enrichment
 9 programs. When we came to them to ask for help
 10 with that we didn't have a focus. We had a
 11 general idea about what we wanted the
 12 programming to be. And it needed to be focused
 13 and pared down. So they helped us identify
 14 areas of enrichment programming that we should
 15 focus on and target. That's what I meant by
 16 that.
 17 Q. What were those areas that you
 18 decided to focus on?
 19 A. The arts, athletics. I should
 20 remember this. Science. And what we sort of
 21 refer to internally as soft academics. So after
 22 school and summer break programming that has an
 23 academic quality to it but with a lighter feel.
 24 Q. And who are the intended audiences
 25 for the messaging that Cooper Katz advised you

1 on?

2 A. The primary audience would be
3 parents who are interested in enrolling their
4 children in our enrichment programs and our
5 schools, or one of those. And then a secondary
6 target would be partners who offer those
7 services who are interested in partnering with
8 us to do it in our schools.

9 Q. And how do you go about recruiting
10 partners for those programs?

11 A. I e-mail them and invite them to be
12 our partner. I reach out to someone who knows
13 them and ask them to broker our relationship or
14 an introduction. Those would be the primary
15 ones.

16 Q. Can you give me organizations you
17 currently partner with in developing those
18 services?

19 A. Yes. So I gave you one before,
20 Jazz At Lincoln Center is one, Brooklyn Academy
21 of Music is another, The Children's Museum of
22 the Arts is another, the New York Academy of
23 Music is another.

24 Q. How much does GIH spend on
25 advertisements in a year?

1 A. I don't know.

2 Q. Who would know that?

3 A. My financial director.

4 Q. Do you keep records of how much GIH
5 spends on advertisements per year?

6 A. Oh, yes.

7 Q. Who keeps those records?

8 A. My financial director. Barb, the
9 person I mentioned before.

10 Q. Did you review any of those
11 financial records in preparation for your
12 deposition today?

13 A. No.

14 Q. Did you collect any of those
15 financial records in connection with this
16 litigation to provide to counsel?

17 A. No.

18 Q. Were you asked to collect any kinds
19 of financial records?

20 A. For this? No.

21 Q. Do you ever develop any kinds of
22 brochures for the schools that you would use in
23 terms of advertisements?

24 A. Yes. We have developed one
25 brochure, we developed that brochure for

1 purposes of recruiting teachers.

2 Q. Are there any other brochures that
3 you developed?

4 A. There is another brochure in
5 development right now.

6 Q. What's the purpose of this
7 brochure?

8 A. To recruit parents to enroll at
9 Pine Street School.

10 Q. How do you plan to distribute that
11 brochure once it's developed?

12 A. Every way imaginable. Handing it
13 to parents who come to events, handing it to
14 parents who visit the school, lots of parents
15 drop into our school to ask about enrollment.
16 So giving it to them. Handing it out at
17 information sessions or any event, making it
18 available in local stores and businesses. Those
19 would be the primary reasons.

20 Q. Do you anticipate doing any kind of
21 a mailing of the brochure?

22 A. We are planning a mass mailing. We
23 are not going to use a brochure for that.

24 Q. What will be in the mass mailing?

25 A. Postcard.

1 Q. How do you develop your mailing
2 list for the mass mailing?

3 A. We have about 500 to 700 names in
4 our database right now. So that would be the
5 number 1 way. The second way is through a mass
6 mailing service that identifies homes by postal
7 code.

8 Q. Have you used one of those mass
9 mailing services in the past?

10 A. I have used them in the past in my
11 consulting practice years ago. I haven't used
12 them in New York yet.

13 Q. But you plan to use them in
14 connection with this mailing?

15 A. Yes.

16 Q. When did GIH first develop its
17 website?

18 A. I first created GIH's website, it
19 would have been by January of 2013. Possibly
20 earlier but I can't remember exactly when.

21 Q. Has that website changed over time?

22 A. Oh, yes.

23 Q. Can you describe to me how it's
24 changed over time?

25 A. Well, it's changed in every way you

1 can imagine. We've changed the content, we
2 changed the pictures, we've changed the copy,
3 we've changed the web address, we've changed
4 the -- I already said copy, content, photos.

5 Q. What is the current web address?

6 A. We actually have two. We have
7 GreenIvySchools.com, and there is a web address
8 for Battery Park Montessori specifically. That
9 was the first website that I created. And it is
10 BPMpreschool.com.

11 Q. When was GreenIvySchools.com
12 created?

13 A. I do not remember.

14 Q. But after January 2013?

15 A. I really don't remember. I
16 remember that I created the first website no
17 later than January 2013.

18 Q. And that was the BPM pre schools?

19 A. Yes.

20 Q. And sometime after that you created
21 GreenIvySchools.com?

22 A. Yes, that's right.

23 Q. How much does GIH spends per year
24 on website development?

25 A. I don't know, but not much.

1 Q. What leads you to say "not much"?

2 A. Well, because a lot of it came out
3 of my pocket. I was looking for the cheapest
4 tools I could find initially.

5 Q. How about after that initial
6 creation, since then has there been further --

7 A. No, nothing has changed there.

8 Q. So the website hasn't changed at
9 all since --

10 A. Sorry, the -- when I first created
11 BPMpreschool.com, I was looking for the
12 cheapest, easiest tool that I could use to get
13 the website up and running. Than has not
14 changed. In other words, I have not sought out
15 a different tool since then.

16 Q. But the content and the appearance
17 of the website has changed since then, correct?

18 A. Yes.

19 Q. How much does GIH spend on the
20 overall development of the website, not just the
21 tool?

22 A. I can't say. I don't know.

23 Q. Who would know that?

24 A. Barb.

25 Q. Does GIH engage in any search

1 engine optimization for its websites?

2 A. I did. I hired someone in I
3 believe it was October 2013 to evaluate our SEO,
4 our search engine optimization status and
5 ability, how good it was, to evaluate it and to
6 improve it. And so for I think three to four
7 months he advised us on ways to build the
8 content and improve searchability. The focus at
9 that time for SEO was on Battery Park Montessori
10 because our focus on that moment was to increase
11 awareness about the school.

12 Q. When you say the focus, does that
13 mean the key words you were using the search
14 engine optimization were focused on Battery Park
15 Montessori?

16 A. Correct. Our goal with SEO at that
17 time was to improve the odds that someone
18 searching the web for a Montessori school in
19 lower Manhattan would yield results with us near
20 the top.

21 Q. And were you specifically
22 attempting to promote Battery Park Montessori as
23 opposed to Green Ivy or some other name?

24 A. At that moment, with the work that
25 we did with that SEO person, yes, that was the

1 sole focus.

2 Q. And since that time have you
3 engaged in SEO with respect to Green Ivy?

4 A. No.

5 Q. Are you aware of whether the order
6 in which Green Ivy Holdings appears in search
7 engines has changed over the past few years?

8 A. I'm not.

9 Q. What other strategies for SEO have
10 you employed since that original --

11 A. That is it. That's the only SEO
12 work that I have done.

13 Q. Has anyone else done any SEO work
14 for GIH?

15 A. Not to my knowledge.

16 Q. What is the e-mail exchange that
17 you use for the Green Ivy Schools?

18 A. The e-mail exchange?

19 Q. What is your e-mail address, for
20 example?

21 A. Mine is GJones@greenivy.com.

22 Q. So do you use GreenIvy.com as well
23 as GreenIvySchools.com?

24 A. For e-mails, everyone's e-mail is
25 their first initial and their last name followed

1 by @GreenIvy.com.

2 Q. And has that been true since the
3 schools were founded?

4 A. No.

5 Q. What was that previously?

6 A. It started with Battery Park
7 Montessori, so BPMPreschool.com was everyone's
8 e-mail address. And then when we obtained the
9 domain for Green Ivy Schools, everyone used
10 first initial, last name, @GreenIvySchools.com.
11 Then we acquired GreenIvy.com and everyone used
12 first initial, last name @GreenIvy.com.

13 Q. Do you know when you acquired
14 GreenIvy.com?

15 A. I do not remember the dates on
16 that.

17 Q. Was it in the last six months?

18 A. No. I believe it was at least
19 within the last year.

20 Q. Do you know how far in advance of
21 that you acquired GreenIvySchools.com?

22 A. No, I really do not remember the
23 timing on Green Ivy Schools or Green Ivy.

24 Q. Do you have any documentation
25 available at GIH about when those domain names

1 were acquired?

2 A. I was asked and I submitted that.
3 I submitted everything I have on that.

4 Q. Have you sold or offered GIH's
5 services in any other means aside from the means
6 we just discussed?

7 A. No.

8 Q. Are there any other means through
9 which GIH intends to offer its services in the
10 future other than those we've just discussed?

11 A. Sorry, I don't -- can you --

12 Q. In the future do you envision using
13 any other means to promote GIH's services other
14 than those we've just discussed?

15 A. By "means" are you referring to the
16 ads and the postcards and the marketing
17 strategies? Is that what you mean?

18 Q. Sure. Are there any other venues
19 through which you will recruit potential users?

20 A. I don't know, but I think so.

21 Q. Can you give me an example of what
22 you might be using?

23 A. We would consider any means
24 available to us.

25 Q. Who is the target audience for this

1 advertising?

2 A. Parents.

3 MS. MCARDLE: I'm going to ask the
4 court reporter to mark Exhibit 5.

5 (Exhibit 5 for identification,
6 Request for Document Production)

7 Q. Have you seen this document before
8 in?

9 A. (The witness reviews the document.)

10 No, I don't think so.

11 Q. Well, I will represent to you that
12 this is the request for document production that
13 was served by Green Ivy Educational Consulting
14 in this matter. I believe you testified earlier
15 that you were asked to gather documents.

16 A. Mm-hmm.

17 Q. Did you understand that that was
18 pursuant to a request from Green Ivy Educational
19 Consulting in this matter?

20 A. No. Jonathan asked me for
21 documents so that he could better understand the
22 timing of the trademark.

23 Q. Did you collect documents at any
24 other time aside from that request from
25 Jonathan?

1 A. No.

2 Q. What exactly was the request from
3 Jonathan? I just want to make sure I understand
4 it.

5 A. He asked me to share with him any
6 e-mails or other documentation that defined the
7 development of our Green Ivy name and brand.

8 Q. And nothing else?

9 A. Sorry?

10 Q. He didn't request any other types
11 of documents from you?

12 A. I believe he said make sure you
13 look through e-mails -- I remember him saying be
14 sure you look at the purchase of the domain
15 name, look at any advertisements, any fliers
16 that were distributed, postcards, things like
17 that. So he went through a list of examples of
18 documents.

19 Q. And did you search for those
20 documents?

21 A. I did, mm-hmm.

22 Q. And did you provide those
23 documents?

24 A. I did.

25 Q. We spoke earlier about some

1 postcards that were distributed in connection
2 with Battery Park Montessori. Did you provide
3 those postcards to Jonathan?

4 A. I don't think I did because he
5 asked for anything that had Green Ivy's name on
6 it. And we did not put Green Ivy's name on the
7 first postcards.

8 Q. So none of the postcards provided
9 had Green Ivy's name on it?

10 A. I only gave him things that had
11 Green Ivy's name on it. So if I didn't give it
12 to him meant that it didn't have Green Ivy's
13 name on it.

14 Q. So all of the promotional material
15 created by GIH that had Green Ivy written
16 anywhere on it was provided?

17 A. Correct.

18 Q. And how about the advertisements
19 that we discussed earlier, the HRP Mammals
20 advertisements and the Broad Sheet
21 advertisements?

22 A. We didn't put Green Ivy's name on
23 the first ones. So I gave him everything that
24 he asked for that had Green Ivy on it.

25 Q. Was there a time when Green Ivy did

1 appear on those advertisements?

2 A. Yes. I believe we started doing
3 that, it would have been between September
4 2013 -- between September and December of 2013 I
5 believe.

6 Q. Just to make sure I understand, you
7 began putting Green Ivy on the advertisements
8 sometime between September and December 2013,
9 correct?

10 A. I think so, mm-hmm.

11 MS. MCARDLE: Dan, I don't think we
12 have any of those advertisements, so we'd
13 request that they be produced.

14 MR. BARSKY: The request was for
15 everything that had Green Ivy on it. I was
16 unaware that they used it from September to
17 December. So I'll get those and forward those
18 to you.

19 A. I could be wrong. I really could
20 be wrong, but my memory is we did like an HRP
21 blast after Montessori opened. And generally
22 speaking, our plan was to get Battery Park
23 Montessori open and then to begin to talk about
24 the family of schools.

25 Q. I believe you said that you sent

1 e-mails to your mailing list, correct?

2 A. Yes.

3 Q. Did those e-mails mention Green
4 Ivy?

5 A. They have mentioned Green Ivy, yes.

6 Q. And did you provide those?

7 A. I didn't because it didn't fall
8 within the time frame of material that I was
9 asked for.

10 Q. And what was the time frame of
11 materials?

12 A. I don't remember, but I remember
13 Jonathan gave me a time frame and if it didn't
14 qualify, I didn't give it to him.

15 Q. But there were e-mails sent to your
16 mailing list that included Green Ivy?

17 A. We have sent e-mails to our mailing
18 list with Green Ivy's name on it.

19 MS. MCARDLE: Dan, we'd request
20 those, too.

21 Q. And in your Facebook posts, do you
22 mention Green Ivy there?

23 A. We definitely have Green Ivy in our
24 Facebook.

25 MS. MCARDLE: Dan, we'd request

1 those as well.

2 MR. BARSKY: I don't know how to
3 give you Facebook.

4 MS. MCARDLE: To the extent that
5 they are recoverable, we would request them from
6 you.

7 Q. And in the events, the socials with
8 parents and community members that we discussed
9 earlier, was there anything handed out at those
10 events that would include Green Ivy's name?

11 A. That I don't know. I don't think
12 so. We don't usually hand things out like that
13 at the event.

14 Q. How about the information sessions,
15 I believe you testified that there were weekly
16 information sessions, correct?

17 A. Yes.

18 Q. And is Green Ivy's name mentioned
19 at those information sessions?

20 A. Yes, definitely.

21 Q. And are there written materials
22 handed out at those information sessions?

23 A. Yes.

24 MS. MCARDLE: Dan, I think we've
25 gotten one info session. But to the extent

1 there are others --

2 MR. BARSKY: I don't think there
3 are. I think it's the same one.

4 Q. It's the same information handed
5 out at those weekly --

6 A. Yes, correct.

7 Q. We'll talk about that also in a
8 minute.

9 At the open house events, are there
10 any other written materials that are handed out
11 at those events?

12 A. Technically, there's only been one,
13 but that I'm not sure because I didn't make that
14 flyer.

15 Q. Do you recall whether you looked at
16 that flyer in collecting the documents to see if
17 it had Green Ivy's name on it?

18 A. No. I only collected documents
19 within a certain time frame and none of the
20 things we're discussing right now fall within
21 the time frame that was specified to me. So
22 that's why all these things have Green Ivy on
23 them, because they didn't fall within the time
24 frame.

25 MS. MCARDLE: We'd request

1 generally, regardless of the time frame.

2 MR. BARSKY: I'm not sure where
3 they got the -- decided that there was a time
4 frame in that. But I'll talk to my client about
5 that.

6 MS. MCARDLE: Thank you.

7 Q. Just to make sure we're clear, does
8 Green Ivy Schools operate any school with Green
9 Ivy in the name?

10 A. Well, on almost every logo it
11 says -- like for Battery Park Montessori it says
12 "Battery Park Montessori, a Green Ivy school."
13 And Pine Street ads say "Pine Street School, a
14 Green Ivy school." The letterhead says "a Green
15 Ivy school."

16 MS. MCARDLE: I don't believe that
17 logo has been produced to us.

18 MR. BARSKY: It's on the fliers.

19 MS. MCARDLE: And it says "a Green
20 Ivy school"?

21 MR. BARSKY: Yes.

22 A. It should.

23 Q. Is there any intention to use the
24 Green Ivy name in another capacity other than "a
25 Green Ivy school"?

1 A. There is an intention. It's a
2 general intention, so there is no specific plan
3 for exactly how it will be used just yet. But
4 the idea is that Green Ivy is our brand and that
5 within that brand we offer schools and education
6 related services. It's meant to be subtle
7 because our goal is to highlight the local
8 nature of the school itself but present it as a
9 member of a family. So thus -- sometimes the
10 focus is on the school and the name of the
11 school, but sometimes it's important to tie them
12 together to represent them as an organization,
13 sister schools for example.

14 Q. And you tie them together through
15 the use of the Green Ivy mark?

16 A. In the minds of the people that
17 we're marketing to, yes.

18 Q. Aside from the logo and describing
19 a school as a Green Ivy school, is there any
20 other way in which the schools are identified as
21 a Green Ivy school to potential participants?

22 A. Is there another way. I can't
23 think of one, but I might not understand the
24 question.

25 Q. Is there signage anywhere at the

1 school?

2 A. Yes.

3 Q. What kinds of signage?

4 A. At Battery Park Montessori, at the
5 entrance our logo is there and the sign says
6 "Battery Park Montessori, a Green Ivy school."

7 Q. Anywhere else?

8 A. Very possibly. I don't know. It's
9 a part of our logo. Our logo says the name of
10 the school, "a Green Ivy school." So everywhere
11 you see our logo you would see "a Green Ivy
12 school."

13 Q. Is tuition charged for your
14 schools?

15 A. Yes.

16 Q. GIH is a for profit company,
17 correct?

18 A. Yes.

19 Q. How much tuition is charged for
20 Battery Park Montessori?

21 A. It varies by the program. Battery
22 Park Montessori, the current school year, the
23 full day is \$27,000, the half day program five
24 days is \$17,000, the half day program two days
25 is \$9,000, and the half day program three days

1 is \$12,500.

2 Q. And how about at Pine Street --

3 A. It will be the same but raised for
4 cost of living. So take all that and raise it
5 by about 3 percent.

6 Q. And does it change depending on the
7 school year, whether a child is in kindergarten
8 or first grade?

9 A. No.

10 Q. What's the process for becoming a
11 student at one of GIH's schools?

12 A. Tour the school, in this case
13 Battery Park Montessori, meet with me. I
14 determine if it's a fit; for example, if the
15 parent expresses an interest in Battery Park
16 Montessori because it's a Montessori program,
17 it's a somewhat unique program, I make sure that
18 the parent understands what a Montessori program
19 is so that they will be happy. And then we
20 enroll the child.

21 Q. Is there an application?

22 A. There is. It's really a very
23 simple application. They tell us the child's
24 date of birth, they express an interest in which
25 schedule they would like, and that's really the

1 extent of it.

2 Q. And do they do that in print or
3 online?

4 A. They do that in print.

5 Q. Is there an online means for them
6 to do that?

7 A. Not right now.

8 Q. Do those forms use the Green Ivy
9 logo?

10 A. Yes.

11 Q. And is there currently a wait list
12 for Battery Park Montessori?

13 A. There is not, no. We just invited
14 everyone on the wait list into the program.

15 Q. So is the school full at this time?

16 A. It is not.

17 Q. You said that you meet with
18 parents. Is that an interview where you ask
19 them questions about their child as well as
20 informing them about Montessori school?

21 A. It's a mutual interview. They
22 answer questions and they're asked questions.

23 Q. What kinds of questions do you ask
24 the parents?

25 A. What do you know about Montessori,

1 did you watch the videos that I sent you, what
2 are your expectations for the program, what is
3 your experience with Montessori. Those are the
4 key questions.

5 Q. Have you provided all application
6 forms and other documents relevant to the
7 sign-up process to your counsel?

8 A. I don't think so. I don't think I
9 was asked for that.

10 MS. MCARDLE: To the extent they
11 reflect the Green Ivy mark, we would request
12 those as well.

13 Q. Who generally decides whether to
14 apply to a Green Ivy school?

15 MR. BARSKY: Object to the form.

16 Q. Do parents or children usually
17 decide whether to apply to a Green Ivy school?

18 A. Well, as a mother I would say --

19 MR. BARSKY: Object to the form.

20 A. -- my son definitely decides. Who
21 decides. I would assume the parents.

22 Q. When you are interviewing for
23 prospective applicants, you're speaking with the
24 parents, correct?

25 A. Oh, yes, yes.

1 Q. And it's the parents that fill out
2 the application forms.

3 A. Right. To date the only families
4 we're talking to are families of young children,
5 meaning under the age of 6.

6 Q. And your recruitment is targeted at
7 parents, correct?

8 A. Yes.

9 Can I take a quick bathroom break?

10 Q. Absolutely.

11 (Recess taken.)

12 BY MS. MCARDLE:

13 Q. I just have one other follow-up on
14 the schools. What's the enrollment at Battery
15 Park Montessori right now?

16 A. I don't know exactly, but I think
17 that it is 70. I think it's 70.

18 Q. And what's the capacity of the
19 school?

20 A. 120.

21 Q. And --

22 A. But you have to -- just to clarify,
23 that's if everybody in the school attends for
24 half a day. So a full half day in the morning
25 and a full half day in the afternoon, because

<p style="text-align: right;">Page 101</p> <p>1 the total student capacity is 60. Makes sense?</p> <p>2 Q. I see.</p> <p>3 A. So we have some students there half</p> <p>4 day morning, some there half day afternoon and</p> <p>5 some there full day.</p> <p>6 Q. So of your enrollment now, how many</p> <p>7 are half day students?</p> <p>8 A. Of the 70, 60 I believe are half</p> <p>9 day. Approximately 60.</p> <p>10 Q. And are those 60 all in the morning</p> <p>11 or mixed between afternoon and --</p> <p>12 A. Mixed between morning and</p> <p>13 afternoon.</p> <p>14 Q. How many are full day?</p> <p>15 A. Approximately ten.</p> <p>16 Q. About how many of your half day</p> <p>17 students come in the morning?</p> <p>18 A. Of the approximately 60 students</p> <p>19 that attend half day, approximately 70 percent</p> <p>20 of them are morning students.</p> <p>21 Q. At Pine Street School, what will</p> <p>22 your capacity be there?</p> <p>23 A. The school's capacity is</p> <p>24 approximately 400.</p> <p>25 Q. And in the first year you open,</p>	<p style="text-align: right;">Page 103</p> <p>1 A. Sure.</p> <p>2 Q. Is it correct that the company</p> <p>3 began as Green Ivy Schools LLC?</p> <p>4 A. I don't remember.</p> <p>5 Q. Then let's look at this document.</p> <p>6 A. What I remember is that that was</p> <p>7 what we would say to the public. The formal</p> <p>8 name I think it was always Green Ivy Holdings if</p> <p>9 I'm not mistaken.</p> <p>10 Q. And when you said that, Green Ivy</p> <p>11 Schools is what you said to the public?</p> <p>12 A. Yes, uh-huh.</p> <p>13 MS. MCARDLE: Mark this as Exhibit</p> <p>14 6, please.</p> <p>15 (Exhibit 6 for identification,</p> <p>16 Certificate of Amendment)</p> <p>17 Q. Do you recognize this document?</p> <p>18 A. I do.</p> <p>19 Q. What's this document?</p> <p>20 A. It is a State of Delaware</p> <p>21 certificate of amendment.</p> <p>22 Q. Does this appear to be a true and</p> <p>23 accurate copy of the document you believe it to</p> <p>24 be?</p> <p>25 A. Yes, it does.</p>
<p style="text-align: right;">Page 102</p> <p>1 what is the capacity of the group for which</p> <p>2 you're opening?</p> <p>3 A. I will cap enrollment in year 1 at</p> <p>4 100 students.</p> <p>5 Q. And have you started accepting</p> <p>6 students yet?</p> <p>7 A. I have.</p> <p>8 Q. How many students have you</p> <p>9 currently enrolled?</p> <p>10 A. I've enrolled 20.</p> <p>11 Q. And when did you begin enrolling</p> <p>12 students?</p> <p>13 A. I began enrolling at Pine Street</p> <p>14 School in November of 2013.</p> <p>15 Q. And when do you need to have</p> <p>16 enrollment completed by before the school year</p> <p>17 starts?</p> <p>18 A. It's ongoing.</p> <p>19 Q. Let's move on to another topic.</p> <p>20 When was GIH founded?</p> <p>21 A. I think it's in the incorporation</p> <p>22 documents. Do you have the incorporation</p> <p>23 documents?</p> <p>24 Q. Let's take a look. Before we mark</p> <p>25 them, a couple background questions.</p>	<p style="text-align: right;">Page 104</p> <p>1 Q. At the top there it lists name of</p> <p>2 limited liability company.</p> <p>3 A. Mm-hmm.</p> <p>4 Q. What does it list there?</p> <p>5 A. It says Green Ivy Schools LLC.</p> <p>6 Q. And the next line says, "The</p> <p>7 certificate of formation of the limited</p> <p>8 liability company is hereby amended as follows,"</p> <p>9 correct?</p> <p>10 A. Mm-hmm, yes.</p> <p>11 Q. And it is amended to read Green Ivy</p> <p>12 Holdings LLC.</p> <p>13 A. Yes.</p> <p>14 Q. Does that refresh your recollection</p> <p>15 as to whether --</p> <p>16 A. A little bit, yes. I remember when</p> <p>17 I founded this I was a little new to naming.</p> <p>18 And the attorney who was advising me at the</p> <p>19 time, I think when I filled in the original</p> <p>20 certification -- or the original incorporation</p> <p>21 document, I wrote Green Ivy Schools, and I think</p> <p>22 I was supposed to write Green Ivy Holdings and</p> <p>23 didn't. So I think this was a correction of</p> <p>24 that.</p> <p>25 Q. I see. So the foundational</p>

26 (Pages 101 to 104)

<p style="text-align: right;">Page 105</p> <p>1 documents listed Green Ivy Holdings but you had 2 written it incorrectly -- 3 A. I believe so. I think you have 4 other documents that reflect Green Ivy Holdings. 5 Q. And the date on this document is 6 April 16, 2012, is that correct? 7 A. Yes. 8 MS. MCARDLE: Let's mark this as 9 Exhibit 7. 10 (Exhibit 7 for identification, 11 Application for Authority) 12 Q. Do you recognize this document? 13 A. I do. 14 Q. What is this document? 15 A. This is an application for 16 authority for Green Ivy Holdings with New York 17 State. 18 Q. And what was the purpose of this 19 document? 20 A. To incorporate -- well, to -- my 21 understanding is that a company registered in 22 Delaware has to have authority in New York 23 State. So this document was intended to obtain 24 that authority. 25 Q. Authority in order to do what in</p>	<p style="text-align: right;">Page 107</p> <p>1 A. No. 2 Q. Have there ever been any other 3 members of GIH? 4 A. No. 5 Q. When was the name selected? 6 A. When was the name selected? 7 Q. The name GIH. When was the name 8 GIH selected? 9 A. Green Ivy Holdings. Well, no later 10 than January 18, 2012. By that date. I think 11 you have e-mail documentation for the generation 12 of the name, so the dates would be on those 13 e-mails. 14 Q. Did anyone assist you with the 15 selection process? 16 A. The selection of Green Ivy Holdings 17 on the selection of Green Ivy? 18 Q. Let's start with Green Ivy. 19 A. Okay, yes. 20 Q. Strike that last question. 21 Did you select the name Green Ivy? 22 A. I did. 23 Q. And who assisted you in selecting 24 the name? 25 A. A number of people. Bryan Trojan</p>
<p style="text-align: right;">Page 106</p> <p>1 New York State? 2 A. Be a business. 3 Q. So is it correct that GIH filed 4 this document because it intended to operate in 5 New York? 6 A. Correct. 7 Q. And the organization date listed on 8 this document is January 18th, 2012, is that 9 correct? 10 A. Correct. 11 Q. It is signed by you on the second 12 page, is that correct? 13 A. Correct. 14 MR. BARSKY: Object to the form. 15 Q. Did you sign this document? 16 MR. BARSKY: It's the third page of 17 the exhibit. 18 Q. Fair enough. On the third page of 19 the exhibit did you sign this document? 20 A. I did. 21 Q. And you signed as a member, is that 22 correct? 23 A. I did. 24 Q. At this time were there any other 25 members of GIH?</p>	<p style="text-align: right;">Page 108</p> <p>1 who was an administrative assistant for me at 2 the time, just helping me handle administrative 3 details while I was trying to get the 4 organization off the ground. So I ran a bunch 5 of names by him. And I had him also research 6 and look into whether or not domains were owned. 7 So he did domain registration research for me on 8 a whole bunch of names. 9 Two friends of mine, Nancy Mah, and 10 Emma Weinstein. They're actually mother and 11 daughter, but they're both friends of mine. 12 Over a bottle of red wine we talked about names, 13 many of which I had generated through a random 14 name generator online through various 15 combinations of things. And they reacted to a 16 bunch of names. 17 Q. And aside from the people you've 18 just mentioned, was there anyone else involved 19 in the name selection process? 20 A. My husband, Ed Sander. 21 Q. Anyone else? 22 A. I think that's it. 23 Q. Was Mr. Sanchez Jimenez involved in 24 it? 25 A. No. I had already chosen it when</p>

27 (Pages 105 to 108)

1 he came into the picture.

2 Q. Were any of the investors he
3 eventually brought to the table involved in the
4 name selection process?

5 A. No. They all came to the table
6 after the name was selected.

7 Q. You mentioned that Mr. Trojan
8 assisted with the domain name search. What
9 other searches were performed?

10 A. That was it.

11 MS. MCARDLE: I'm going to ask the
12 court reporter to mark the next exhibit.

13 (Exhibit 8 for identification,
14 HiTask Printout)

15 Q. Do you recognize this document?

16 A. I do.

17 Q. What is it?

18 A. This is -- it has the word HiTask
19 on it. HiTask is an online task management
20 program. And I use that to give Bryan things to
21 do for me.

22 Q. Is this document a printout from
23 your Gmail account?

24 A. Yes, mm-hmm.

25 Q. And it's dated January 12, 2012 at

1 about enrollment, tuition prices, schedule,
2 basic sort of data about the school.
3 Administrative things, formatting documents,
4 things like that.

5 Q. So was Mr. Trojan employed by GIH?

6 A. He was eventually. He started out
7 just being paid by me personally. And then once
8 we formed the company he became an employee of
9 GIH.

10 Q. How long was he an employee of GIH?

11 A. I don't remember when he officially
12 started as an employee for GIH. So it was less
13 than a year.

14 Q. And is it correct that this e-mail
15 reflects a request from you made on
16 November 1st, 2012?

17 A. That's what it says here, yes.

18 Q. And the request is for research on
19 availability of names and web domains for my new
20 corporation, is that correct?

21 A. Yes.

22 Q. Specifically you write, "I need
23 research done on the names availability as a
24 corporation both in Delaware where we will be
25 incorporated and in New York where we will be

1 3:09 p.m., correct?

2 A. Yes, correct.

3 Q. And it is an e-mail from HiTask to
4 JIJ2000@gmail.com, correct?

5 A. Yes.

6 Q. And JIJ is your e-mail address?

7 A. It's my personal e-mail address,
8 yes.

9 Q. And you testified that Bryan Trojan
10 was at this time an executive assistant.

11 A. Executive I wouldn't say. He was
12 administrative. He was doing random clerical
13 jobs for me.

14 Q. Does he continue to work for you?

15 A. No.

16 Q. Did he do work for you aside from
17 these initial clerical work?

18 A. Yes, he did.

19 Q. What other work did he do?

20 A. He did -- let's see. He attended
21 parent information sessions with me for Battery
22 Park Montessori, mostly doing the setup of
23 chairs and printing materials and things like
24 that. He handed out postcards in the
25 neighborhood, he answered basic parent questions

1 registered." Then you write, "I need research
2 done on the web domains available to accommodate
3 the name options," correct?

4 A. Correct.

5 Q. This e-mail lists some names that
6 you describe as basic conceptual names, correct?

7 A. Correct.

8 Q. Can you list me the basic
9 conceptual names that you refer to here?

10 A. You want me to read the names that
11 are listed here?

12 Q. Sure. Just the general categories.

13 A. Sorry, I don't follow you.

14 Q. I'll rephrase. The general
15 conceptual names you refer to, the first one is
16 Bamboo, correct?

17 A. The general conceptual names. Is
18 that written somewhere? I'm sorry. I see
19 Bamboo Education. Is that the list you're
20 talking about?

21 Q. Five lines up in the first
22 paragraph there's a sentence that begins, "I
23 have basic conceptual names," correct?

24 A. Oh, I see, okay, I'm with you. You
25 want me to read that?

<p style="text-align: right;">Page 113</p> <p>1 Q. No, that's fine. And then after 2 that there is a numbered list that begins on the 3 last line of the -- the last full line of the -- 4 A. The formatting is a little kooky. 5 Q. The first is Bamboo, correct? 6 A. Yes. Well, the first is Bamboo 7 Bamboo Schools. I think it's obvious why we 8 didn't choose that. 9 Q. If you look down at the first line 10 of what appears in this as the second paragraph, 11 you'll see there's a number 2. 12 A. Right. So number 2 is Big Bamboo. 13 Number 3 is -- am I doing what you want me to 14 do? 15 Q. Please. 16 A. 3 is Blue Bamboo. 4 is Next Gen, 5 17 is Spring Or Springs. 6 is Tiger. This is 18 funny. A walk down memory lane. 7 is Tiger 19 Spirit. 8 is Tiger Lily, 9 is Cherry Blossom. 20 10 is Blossom. 21 Q. So in this list -- this list does 22 not include Green Ivy, correct? 23 A. I don't see Green Ivy on here, no. 24 Q. If you turn to the next page of 25 this e-mail, is there a comment up at the top of</p>	<p style="text-align: right;">Page 115</p> <p>1 A. Well, because it sounded nice. It 2 sounded nice, it evoked a good feeling, it 3 evoked environmentalism, it evoked schools. 4 Q. If you could turn back to the front 5 page now. 6 A. Yup. 7 Q. Is it correct that this document 8 attached a -- this e-mail attached a document 9 called Company Name Search XLSX? 10 A. Yes, I believe so. I had an Excel 11 sheet I think. 12 Q. But that document isn't attached to 13 this e-mail. 14 A. No, it's not. 15 Q. Do you know why that document 16 wouldn't have been included with this e-mail 17 when it was provided to us? 18 A. I don't. 19 Q. Is that document available to GIH? 20 A. I believe so. 21 MS. MCARDLE: We request that 22 document as well. 23 MR. BARSKY: I think you have it. 24 MS. MCARDLE: Not that first -- 25 MR. BARSKY: It's a later</p>
<p style="text-align: right;">Page 114</p> <p>1 that page dated November 11th, 2012 from you? 2 A. Yes. 3 Q. And in that comment you write, 4 "Please add these name possibilities," correct? 5 A. Correct. 6 Q. And there you list Green Ivy or Ivy 7 Green as well as Kiwi and Sandbox, correct? 8 A. Correct. 9 Q. What made you add Green Ivy or Ivy 10 Green? 11 A. Oh, I don't remember. They were 12 all part of a list. But I omitted these. 13 Q. Do you have any memory of what made 14 you initially include Green Ivy in the list of 15 names for Mr. Trojan to search? 16 A. Do I remember why I included Green 17 Ivy? 18 Q. Yes. 19 A. Oh, because it was part of our 20 original brainstorm list. 21 Q. Do you have any memory of why you 22 included it in the brainstorm list? 23 A. Because we liked it a lot. 24 Q. Do you have any memory of why you 25 liked it a lot?</p>	<p style="text-align: right;">Page 116</p> <p>1 iteration? 2 MS. MCARDLE: There are several 3 iterations. 4 MR. BARSKY: I'll ask them if they 5 have the original or if the file was overwritten 6 as they updated it. 7 MS. MCARDLE: I'll ask the court 8 reporter to mark another e-mail in the same 9 series as Exhibit 9. 10 (Exhibit 9 for identification, 11 January 12, 2012 HiTask E-mail) 12 Q. Do you recognize this document? 13 A. Yes, I do. 14 Q. Is this document another e-mail in 15 the same series we were just discussing? I 16 could strike that. We'll get there. Is there 17 an e-mail between HiTask and yourself dated 18 January 12, 2012 at 4:08 p.m.? 19 A. Yes. 20 Q. So this is just shortly after the 21 prior e-mail that we were just discussing, 22 correct? About an hour. 23 A. Well, yes and no. I mean, HiTask 24 is a program so it's not really an e-mail 25 between me and HiTask. But it is a notification</p>

<p style="text-align: right;">Page 117</p> <p>1 or a message from the program that includes</p> <p>2 correspondence between me and Bryan. It's a</p> <p>3 vehicle for communication between me and Bryan.</p> <p>4 Q. That you received at 4:08 p.m. on</p> <p>5 January 12, 2012?</p> <p>6 A. That's what it says here, yes.</p> <p>7 Q. And the body of the e-mail reflects</p> <p>8 commentary back and forth between Bryan Trojan</p> <p>9 and yourself, correct?</p> <p>10 A. Correct.</p> <p>11 Q. That commentary is time stamped as</p> <p>12 it goes through?</p> <p>13 A. Yes.</p> <p>14 Q. This document also attaches -- this</p> <p>15 e-mail also attaches a file called Company Name</p> <p>16 Search Updated XLSX, is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And on January 12, 2012 Bryan</p> <p>19 Trojan wrote a comment that says, "Hi, Jennifer,</p> <p>20 I will upload the modified document," correct?</p> <p>21 A. I don't see that.</p> <p>22 Q. In the second comment on the page</p> <p>23 about halfway down the page --</p> <p>24 A. Oh, I see, yes, okay. Yes.</p> <p>25 Q. Do you understand that this</p>	<p style="text-align: right;">Page 119</p> <p>1 notification with the attached document,</p> <p>2 correct?</p> <p>3 MR. BARSKY: Object to the form.</p> <p>4 Q. The last commentary from Mr. Trojan</p> <p>5 was at 15:53:57, correct?</p> <p>6 A. That's what it says here, yes.</p> <p>7 Q. And then at 4:08 p.m. you received</p> <p>8 this e-mail, correct?</p> <p>9 A. That's what it says here, yes.</p> <p>10 Q. And the e-mail attaches company</p> <p>11 name search updated.</p> <p>12 MR. BARSKY: Object to the form.</p> <p>13 A. I assume there was a document</p> <p>14 attached, but I don't see the document here and</p> <p>15 I don't remember.</p> <p>16 MR. BARSKY: Can I try to explain?</p> <p>17 It's not like an actual -- my understanding of</p> <p>18 HiTask is that it's like a Cloud group working</p> <p>19 thing so that it's not like an e-mail like you</p> <p>20 and I send back and forth that attaches</p> <p>21 something. It's a notice that the online</p> <p>22 document has been updated. So it's not</p> <p>23 necessarily attached to this e-mail, which is</p> <p>24 why it says attached to the task, not the</p> <p>25 e-mail. I think that's where the confusion is</p>
<p style="text-align: right;">Page 118</p> <p>1 document attached here is the modified document</p> <p>2 that he created after you requested him --</p> <p>3 strike that.</p> <p>4 Did you request that he modify the</p> <p>5 document after he initially sent it to you?</p> <p>6 A. I don't know if I used those words.</p> <p>7 I suspect that what he means is that he added</p> <p>8 names or information. So when he said he</p> <p>9 modified it, he probably means that he added</p> <p>10 things to it.</p> <p>11 Q. So let's start in the next comment</p> <p>12 down, it's from you to Mr. Trojan on the 12th at</p> <p>13 15:33:32, correct?</p> <p>14 A. Mm-hmm. Yes.</p> <p>15 Q. And so then after you received the</p> <p>16 modified document you said, "Thank you,</p> <p>17 wonderful job. Would you please do two things</p> <p>18 for me ASAP," is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. And then in the last comment from</p> <p>21 Mr. Trojan he said, "Working on the highlighting</p> <p>22 right now along with adding New Bamboo. Should</p> <p>23 be done in five minutes." Correct?</p> <p>24 A. Correct.</p> <p>25 Q. And then you received this</p>	<p style="text-align: right;">Page 120</p> <p>1 coming from.</p> <p>2 A. To clarify, in HiTask, the way you</p> <p>3 share documents is you upload a document into</p> <p>4 the program and then I can access that document.</p> <p>5 So he can access it, I can access it.</p> <p>6 Q. So this e-mail notification is</p> <p>7 letting you know that he has attached an updated</p> <p>8 file to the task on the program, correct?</p> <p>9 A. Does it say attachment somewhere?</p> <p>10 Q. Up at the very first part of the</p> <p>11 e-mail.</p> <p>12 A. Oh, attached was added to the task.</p> <p>13 Thank you. Yes, that means it was uploaded.</p> <p>14 Q. And then you could login and view</p> <p>15 it?</p> <p>16 A. Correct, yes.</p> <p>17 MR. BARSKY: Which, by the way, is</p> <p>18 also why when you're asking for prior iterations</p> <p>19 of documents, it's not like it was attached to</p> <p>20 each e-mail printout. They were updating the</p> <p>21 document in the Cloud, which is why I don't</p> <p>22 think there are any prior versions of it.</p> <p>23 Q. Do you have any memory of</p> <p>24 downloading the prior versions of the document</p> <p>25 to view them?</p>

<p style="text-align: right;">Page 121</p> <p>1 A. I would have viewed them online and</p> <p>2 we would have -- it's been a while but we would</p> <p>3 have viewed the same document. I was just</p> <p>4 looking for the modification. I was looking to</p> <p>5 see new names added or new highlighting added so</p> <p>6 that -- I don't remember downloading because the</p> <p>7 point of HiTask is that you don't necessarily</p> <p>8 need to do that to view the document.</p> <p>9 Q. Do you still have access to the</p> <p>10 HiTask program?</p> <p>11 A. I have not used it since basically</p> <p>12 around this time, so I don't think so. I don't</p> <p>13 know if it expires when you don't use it.</p> <p>14 Q. But you don't know whether you have</p> <p>15 access to it?</p> <p>16 A. I don't know because I haven't</p> <p>17 attempted to access it for a long time.</p> <p>18 MS. MCARDLE: To the extent you</p> <p>19 have access to it --</p> <p>20 MR. BARSKY: We'll take a look.</p> <p>21 And I think that's where the misunderstanding is</p> <p>22 coming from because it's not like an e-mail that</p> <p>23 you and I are used to working with.</p> <p>24 (Exhibit 10 for</p> <p>25 identification, January 12, 2012 E-Mail from Mr.</p>	<p style="text-align: right;">Page 123</p> <p>1 Exhibit 9 and things he says here in Exhibit 10.</p> <p>2 But I would assume that it's a continuation of</p> <p>3 his last comment to me, "Working on the</p> <p>4 highlighting right now along with adding new</p> <p>5 Bamboo. Should be done in five minutes." That</p> <p>6 was on January 12 at 15:53. That's 3 -- that's</p> <p>7 almost 4:00. Right? So that's in Exhibit 9.</p> <p>8 And then in Exhibit 10 he writes to me about an</p> <p>9 hour later, if my math is right.</p> <p>10 So I'm assuming that what's in</p> <p>11 Exhibit 10, what he would have attached in</p> <p>12 Exhibit 10 represents the highlighting that he</p> <p>13 was doing in Exhibit 9.</p> <p>14 Q. At any rate, it reflected the</p> <p>15 request that you made to him for changes in the</p> <p>16 document, correct?</p> <p>17 A. Without seeing the attachment in</p> <p>18 front of me, I don't know.</p> <p>19 Q. So the name of the document</p> <p>20 attached is company name search (updated</p> <p>21 3.0).XLSX, correct?</p> <p>22 A. Correct.</p> <p>23 (Exhibit 11 for</p> <p>24 identification, List of Company Names)</p> <p>25 Q. I'm handing you a document marked</p>
<p style="text-align: right;">Page 122</p> <p>1 Trojan to Ms. Jones)</p> <p>2 Q. I'm handing you Exhibit 10. This</p> <p>3 is an e-mail -- excuse me, do you recognize this</p> <p>4 e-mail?</p> <p>5 A. Yes.</p> <p>6 Q. Is this an e-mail from Bryan</p> <p>7 Trojan's Gmail account to your Gmail account?</p> <p>8 A. Yes.</p> <p>9 Q. And it's dated January 12, 2012 at</p> <p>10 4:46 p.m.</p> <p>11 A. Yes.</p> <p>12 Q. Do you know why he would have sent</p> <p>13 this from his Gmail account rather than through</p> <p>14 HiTask?</p> <p>15 A. No. It might have been he couldn't</p> <p>16 access HiTask for some reason. Maybe he's on</p> <p>17 his phone.</p> <p>18 Q. And he says, "As per our phone</p> <p>19 conversation, please find the attached list."</p> <p>20 Is it correct that he was attaching a new</p> <p>21 version of the spreadsheet based on further</p> <p>22 updates?</p> <p>23 A. I don't know. All I remember is</p> <p>24 what's written here. So I don't know if it</p> <p>25 would have changed between things written in</p>	<p style="text-align: right;">Page 124</p> <p>1 Exhibit 11. Do you recognize this document?</p> <p>2 A. Yes.</p> <p>3 Q. What is this document?</p> <p>4 A. This is a list of potential names</p> <p>5 for our company.</p> <p>6 Q. Is this the list that Mr. Trojan</p> <p>7 was working on?</p> <p>8 A. I don't know. I would have to --</p> <p>9 Q. I will represent to you that the</p> <p>10 name of this file as produced by your counsel is</p> <p>11 Company Name Search (updated 3.0) XLSX.</p> <p>12 A. Okay.</p> <p>13 Q. Based on that, do you understand</p> <p>14 this to be the document that Mr. Trojan was</p> <p>15 working on?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And did you provide this document</p> <p>18 to counsel for production in connection with</p> <p>19 this matter?</p> <p>20 A. I did.</p> <p>21 Q. Do you have any reason to believe</p> <p>22 this document is anything other than the</p> <p>23 document attached to the e-mail at Exhibit 10?</p> <p>24 A. I don't see highlighting, but I</p> <p>25 don't know if that would have come out in the</p>

1 printing. That's the only thing that makes me
2 wonder about it. But I remember this list, so I
3 know this is a list that we generated as part of
4 this process.

5 Q. And this is a list of potential
6 names for what became Green Ivy, correct?

7 A. Yes.

8 Q. And of the 62 names listed here, I
9 will represent to you that that's how many there
10 are, how many of them include the phrase "Green
11 Ivy"?

12 A. Let's see -- does Ivy Green count?

13 Q. No.

14 A. Then five.

15 Q. How many include Ivy Green?

16 A. Four.

17 Q. And the other names reflect that
18 initial list that we discussed, correct?

19 A. Mm-hmm.

20 Q. As well as --

21 MR. BARSKY: You have to answer
22 verbally.

23 A. Yes. Sorry.

24 Q. As well as Kiwi and Sandbox and New
25 Bamboo which were added later, correct?

1 A. Yes.

2 (Exhibit 12 for
3 identification, January 12, 2012 E-mail to Ms.
4 Jones)

5 Q. I'm handing you an exhibit marked
6 Exhibit 12. Do you recognize this document?

7 A. I do, yes.

8 Q. What is this document?

9 A. This is an e-mail from Bryan to me.

10 Q. And it's dated January 12, 2012 at
11 6:37 p.m.?

12 A. Yes.

13 Q. And the second e-mail in the chain
14 is from you to Bryan, correct?

15 A. The second e-mail in the chain?
16 Oh, where it says "so helpful"?

17 Q. Yes, at 5:31 p.m.

18 A. Mm-hmm.

19 Q. And you write, "It's looking like
20 Green Ivy Schools. (I like Bamboo, too)." What
21 made you write "it's looking like Green Ivy
22 Schools" at that point?

23 A. Because it seemed to feel like the
24 name that would best represent the vision of
25 what we were trying to do. And based on the

1 feedback from my friends Nancy, Emma, my
2 husband, reaction was that Bamboo might feel a
3 little too playful, not serious enough for what
4 we were trying to do.

5 Q. And Mr. Trojan expresses his
6 opinion in the first e-mail in this chain. He
7 writes, "I like Green Ivy." What weight did you
8 put on Mr. Trojan's opinions?

9 A. I mean, the same weight that I gave
10 anyone else's opinion really. An objective
11 reaction.

12 (Exhibit 13 for
13 identification, January 12, 2012 E-mail from Mr.
14 Trojan to Ms. Jones)

15 Q. I'm handing you a document marked
16 Exhibit 13. Do you recognize this document?

17 A. Yes.

18 Q. What is this document?

19 A. This is an e-mail from Bryan to me.

20 Q. And it's dated January 12th, 2012
21 at 4:17 p.m., correct?

22 A. Yes. Mm-hmm.

23 Q. On the second page of this exhibit,
24 about a third of the way down the page there is
25 an e-mail from Bryan at 10:58 a.m., correct?

1 A. Yes, mm-hmm.

2 Q. And below that an e-mail from you
3 at 10:27 a.m., correct?

4 A. Yes.

5 Q. And you write, "Just need a sense
6 of when you expect to finish corporate name
7 search. Attorney is waiting on names so he can
8 draft investor agreement. An investor is
9 waiting for agreement." Correct?

10 A. Mm-hmm.

11 MR. BARSKY: Object to the form.
12 It says A-T-T-Y, not attorney.

13 Q. Excuse me.

14 So you were asking Mr. Trojan when
15 he would finish the search you requested,
16 correct?

17 A. Yes.

18 Q. And you were asking that because
19 your attorney was waiting on the name so he
20 could draft an agreement, correct?

21 A. Yes.

22 Q. Who was the investor that you said
23 was waiting for the agreement?

24 A. Someone that I worked for years ago
25 when I was a consultant developing schools, a

<p style="text-align: right;">Page 129</p> <p>1 man named Bill Coats, who was then the CEO of 2 Leona Group. Which is a charter school 3 development company. 4 Q. And why was he waiting -- excuse 5 me, why did you need the name? 6 A. I wanted to put the name on the 7 proposal. 8 Q. So was it a proposal for -- 9 A. I might be using the wrong term. 10 It was a term document. I believe that's what 11 it's called. A term sheet to propose terms of 12 investment in the organization. 13 Q. And did Mr. Coats end up investing 14 in the organization? 15 A. No, he didn't. 16 Q. Was the agreement at all contingent 17 on the name? 18 A. No. But I needed to incorporate 19 it. I believe that's what I was trying to 20 achieve here. 21 Q. But the investor -- the potential 22 investor was not involved in the name selection 23 in any way. 24 A. No, not at all. 25 Q. Was the Green Ivy name selected as</p>	<p style="text-align: right;">Page 131</p> <p>1 and its availability as a domain and as a 2 company name in those two states. 3 Q. Did you do any other searching for 4 whether the name was used in any other capacity? 5 A. No, I didn't. 6 Q. Did you commission any trademark 7 searches? 8 A. No, I didn't. 9 Q. Did you search the Patent and 10 Trademark Office website or database associated 11 with -- 12 A. No, I didn't. 13 Q. Did you search for the name using 14 search engines like Google? 15 A. No, I didn't. 16 Q. Did you ask anyone else to do any 17 of those things? 18 A. No, I didn't. 19 Q. Did you ever think about whether to 20 do any additional searching? 21 A. No. 22 Q. Was any further searching done of 23 any other potential names? 24 A. Do you mean aside from domain and 25 corporation name availability?</p>
<p style="text-align: right;">Page 130</p> <p>1 a result of the searches performed by Bryan 2 Trojan? 3 A. Was it selected as a result of his 4 search? 5 Q. Yes. 6 A. No. I selected the name because I 7 liked it most out of the options that are listed 8 in this Exhibit 11. 9 Q. And Mr. Trojan compiled the list in 10 Exhibit 11, correct? 11 A. Well, I generated the original set 12 of conceptual names that are mentioned in 13 Exhibit 8. So he didn't generate the names, but 14 he just researched whether there was a domain 15 name available for them and whether they were 16 companies already registered in those two 17 states, Delaware and New York, under those 18 names. 19 Q. And after he performed that search 20 you made the determination as to what name to 21 use -- 22 A. Correct. 23 Q. -- based on that research and your 24 own understanding of what you -- 25 A. Based on my preference for the name</p>	<p style="text-align: right;">Page 132</p> <p>1 Q. Yes. 2 A. No. Not to my knowledge. 3 Q. Were you aware of Green Ivy 4 Educational Consulting when you selected the 5 name? 6 A. No, I wasn't. 7 Q. What about Ana Homayoun? 8 A. No. 9 Q. Are you aware of Green Ivy 10 Educational Consulting now? 11 A. Yes, I am. 12 Q. When did you first become aware of 13 Green Ivy Educational Consulting? 14 A. I believe it was after the article 15 was published about us in the New York Post. 16 Q. And when was that? 17 A. Don't remember, but I think you 18 have the article. It was after we signed the 19 lease on The New School, on the Pine Street 20 School. I don't remember the exact date. 21 Q. And what made you become aware of 22 Green Ivy Educational Consulting? 23 A. I think someone -- we got a lot of 24 inquiries after that article was published, and 25 I think someone, a parent, I don't remember who</p>

<p style="text-align: right;">Page 133</p> <p>1 it was, someone contacted me and said did you 2 know there's another Green Ivy in California or 3 San Francisco. 4 Q. And what did you do as a result of 5 that phone call? 6 MR. BARSKY: Object to the form. 7 You can answer. 8 A. What did I do after that phone 9 call? I Googled her and it and looked into what 10 she was doing and the nature of her work. 11 Jonathan and I talked about it; I don't remember 12 exactly what we said at that time. I think he 13 and I talked about what the nature of Green Ivy 14 was, what kind of work she was doing. I 15 remember that it didn't strike me as anything 16 comparable to what we were doing. I think 17 that's what happened next. 18 Q. And prior to that awareness of 19 Green Ivy Educational Consulting, did you have 20 any awareness of Ana Homayoun? 21 A. No. 22 Q. So you became aware of her at the 23 same time as you became aware of Green Ivy 24 Educational Consulting? 25 A. I first became aware of Green</p>	<p style="text-align: right;">Page 135</p> <p>1 the name Green Ivy in information sessions in 2 connection with Battery Park Montessori? 3 A. We did not include Green Ivy in any 4 of the Battery Park Montessori info sessions. 5 We did include it in all the Pine Street School 6 info sessions. And the first one of those was 7 November or December of 2013. 8 (Exhibit 14 for 9 identification, Website Printout) 10 Q. This is Exhibit 14. Earlier we 11 discussed GIH's website, correct? 12 A. Correct. 13 Q. Take your time to flip through this 14 document, but does this appear to be accurate 15 representation -- excuse me, to be accurate 16 copies of printouts from the website? 17 A. Yes. Just clarifying, we have two 18 websites. 19 Q. This is the GreenIvySchools.com 20 website, correct? 21 A. Correct. 22 Q. Do any of the Green Ivy marks that 23 are the subject of the applications here appear 24 on the home page of the GIH website? I believe 25 that's the first page of this exhibit.</p>
<p style="text-align: right;">Page 134</p> <p>1 Ivy -- her Green Ivy, and then of her. 2 Q. Do you recall when the name Green 3 Ivy was first used by GIH following the e-mails 4 where you selected it? 5 A. Do I remember when we used the name 6 Green Ivy following the selection. I don't. 7 Q. Do you have a memory of when you 8 first used Green Ivy publicly? 9 A. I don't. 10 Q. When was it first used on a school, 11 if ever? 12 A. I don't remember. 13 Q. Do you remember how it was first 14 used publicly? 15 A. No. 16 Q. You testified earlier that the 17 initial documents you created for Battery Park 18 Montessori did not include the name Green Ivy, 19 is that correct? 20 A. Correct. 21 Q. Do you recall when the materials 22 you produced in connection with Battery Park 23 Montessori began including Green Ivy? 24 A. I don't. 25 Q. Do you recall when you began using</p>	<p style="text-align: right;">Page 136</p> <p>1 A. No. 2 Q. How about the "our schools" page 3 that follows? 4 A. No. 5 Q. Do the Green Ivy marks appear on 6 the pages for Battery Park Montessori or the 7 Pine Street School that follow? 8 A. No. 9 Q. Do the Green Ivy marks appear on 10 the info sessions page that follow that? 11 A. No. 12 Q. Do they appear on the spring 13 classes 2014, summer camp 2014 or enrichment 14 pages that follow that? 15 A. Just clarification. On the info 16 sessions page, it's in the "e-mail us at 17 info@GreenIvy.com. 18 Q. Other than the e-mail address 19 listed? 20 A. No. 21 Q. And in the spring classes 2014, 22 summer camp 2014 or enrichment pages that 23 follow, is there -- 24 A. No. 25 Q. -- the Green Ivy mark -- none of</p>

<p style="text-align: right;">Page 137</p> <p>1 the Green Ivy marks appear on those pages, 2 correct? 3 A. No. I mean yes, correct. 4 Q. Following that there's a page 5 titled "Workshops and events, Green Ivy 6 Schools," correct? 7 A. Correct. 8 Q. And there's one workshop with 9 Bridge Kids New York and another with Common 10 Sense CPR, correct? 11 A. Correct. 12 Q. Are these examples of partners with 13 which Green Ivy Holdings works for enrichment 14 programs? 15 A. Yes. 16 Q. Is the Green Ivy name associated 17 with either of these two workshops? 18 A. What do you mean? 19 Q. When a parent goes to sign up for 20 the first workshop listed, is the Green Ivy name 21 associated with that program? 22 A. Do you mean do they see the name 23 Green Ivy anywhere when they go to register for 24 it? 25 Q. Sure.</p>	<p style="text-align: right;">Page 139</p> <p>1 Montessori, the first school in the Green Ivy 2 network. 3 Q. For what purpose does Green Ivy 4 Schools use its blog? 5 A. Marketing is the intent. Public 6 relations and marketing. 7 Q. So you have to look pretty hard at 8 the website to find Green Ivy, is that correct? 9 MR. BARSKY: Object to the form. 10 A. Oh, I thought you meant to find the 11 blog. You have to look hard to find Green Ivy? 12 Yes, currently you do. 13 Q. And is the mark used anywhere else 14 on the website that you know of? 15 A. On the Green Ivy website, no, I 16 don't think so. I think this is a fairly 17 current printout. 18 Q. How many visitors do you have to 19 your website on a daily basis? 20 A. No idea. 21 Q. On a weekly basis? 22 A. No idea. 23 Q. On a monthly basis? 24 A. No idea. 25 Q. Who would know that information?</p>
<p style="text-align: right;">Page 138</p> <p>1 A. I don't know. I don't see it here. 2 I really don't know. I'm not doing this part. 3 Q. Who is doing this part? 4 A. Jen Henriquez who is enrichment 5 director. 6 Q. On the "join our team" page that 7 follows that, does the Green Ivy name appear on 8 this page? 9 A. Yes. 10 Q. So the Green Ivy name is used in 11 staff recruitment, is that correct? 12 A. Currently, on this website. On 13 this page, yes. 14 Q. And the pages that follow that, 15 those appear to be blogs -- the Green Ivy 16 Schools' blog, is that correct? 17 A. Yes. 18 Q. Does Green Ivy Schools appear in 19 the blog? 20 A. I see it on -- I don't know what 21 page of the attachments this is. Page 2 of 4 of 22 the blog section. Again, it's the link to 23 GreenIvySchools.com. Otherwise I don't see the 24 name Green Ivy anywhere. On page 3 of 4 of the 25 blog I see the post about Battery Park</p>	<p style="text-align: right;">Page 140</p> <p>1 A. Probably no one. 2 Q. Do you receive any kind of a report 3 about the website traffic to your website? 4 A. No, we don't. 5 Q. What is GIH's annual revenue? 6 A. I have no idea. 7 Q. Do you know what the annual revenue 8 for the Montessori School is? 9 A. No. 10 Q. Or any of the other services? 11 A. No. 12 MR. BARSKY: Object to the form. 13 A. But Barb would. Barb's your girl 14 for numbers. 15 Q. What is your annual budget for 16 advertising and promotion of any mark, including 17 Green Ivy? 18 A. We don't have one. 19 Q. But you do conduct advertising and 20 promotion. 21 A. We do. We spend money on it, but 22 we don't have a budget. 23 Q. Do you have any record of how much 24 money you spend on advertising and promotion -- 25 A. I don't, but Barb would.</p>

35 (Pages 137 to 140)

<p style="text-align: right;">Page 141</p> <p>1 Q. Has Battery Park Montessori ever 2 won any awards? 3 A. No. 4 Q. I'm assuming Pine Street School 5 hasn't either, correct? 6 A. Not yet. 7 Q. We're going to do one more quick 8 thing before lunch. 9 (Exhibit 15 for 10 identification, News Article) 11 (Exhibit 16 for 12 identification, New York Post Article) 13 (Exhibit 17 for 14 identification, Job Posting) 15 Q. Have the schools been the subject 16 of any media coverage? 17 A. Yes, as evidenced by Exhibit 15 and 18 16. 19 Q. Do you have 17, too? 20 A. Oh, I do. Sorry. I don't view 21 that as media coverage. 22 Q. Well, let's start with 15 and 16. 23 A. Okay. 24 Q. Let's start with 15. Do you 25 recognize this document?</p>	<p style="text-align: right;">Page 143</p> <p>1 discusses? 2 A. This article discusses the real 3 estate deal made between us, Green Ivy Holdings, 4 and the Trump organization at the location for 5 Pine Street School. 6 Q. And if you'll turn to Exhibit 17, 7 this is an article titled "New Montessori school 8 looking to hire a lead teacher," dated February 9 14, 2013, correct? 10 A. Well, what's not correct is it's 11 not an article. It's a job posting. 12 Q. I see. Is this a posting that you 13 created? 14 A. Correct. I wrote this. 15 Q. I see. So aside from the article 16 we just discussed in Exhibit 16 and the article 17 we provided in Exhibit 15, are there any other 18 media mentions of Green Ivy that you're aware 19 of? 20 A. There has been other media 21 coverage, at least one other media coverage by a 22 local organization called I think Battery Park 23 TV, a super local -- and for some reason they do 24 writing as well as TV. But I don't know if they 25 mentioned Green Ivy. I can't say. It's</p>
<p style="text-align: right;">Page 142</p> <p>1 A. I don't believe I ever saw the 2 article reflected in Exhibit 15. I have seen 3 the article in Exhibit 16. 4 Q. Did you provide these two articles 5 to counsel in connection with this matter? 6 A. No, I didn't. 7 Q. Do you know who did? 8 A. No, I don't. 9 Q. And you just testified that you 10 have not seen the first article, is that 11 correct? 12 A. I don't remember seeing the first 13 article, Exhibit 15, no. 14 Q. And the second article, you do 15 recall seeing this article, correct? 16 A. Yes, I do. 17 Q. And this is titled "ABCs and Ivy on 18 Wall Street" by Lois Weiss, correct? 19 A. Yes. 20 Q. And it appeared in the New York 21 Post? 22 A. It did. 23 Q. On March 27, 2013. 24 A. Yes. 25 Q. Do you remember what this article</p>	<p style="text-align: right;">Page 144</p> <p>1 Googleable though. You can find it if you 2 Google it. I think Battery Park TV. I'm not 3 positive about that name, but something like 4 that. 5 Q. Aside from that additional article, 6 are there any other media uses of Green Ivy that 7 you're aware of? 8 A. Yes. The Broad Sheet that I 9 mentioned before, the local newspaper did two 10 stories; one about Battery Park Montessori 11 before it opened. That's also -- you can Google 12 that one. And the second story was about Pine 13 Street School. And I'm pretty certain Green Ivy 14 was mentioned in both. 15 Q. Aside from those three additional 16 articles, are there any other media mentions of 17 Green Ivy that you can recall? 18 A. No, not that I'm aware of. 19 Q. Why don't we break for lunch. 20 (Luncheon Recess: 12:35 p.m.) 21 22 23 24 25</p>

36 (Pages 141 to 144)

<p style="text-align: right;">Page 145</p> <p>1 AFTERNOON SESSION</p> <p>2 1:30 p.m.</p> <p>3 JENNIFER JONES,</p> <p>4 resumed, having been previously duly sworn, was</p> <p>5 examined and testified further as follows:</p> <p>6 CONTINUED EXAMINATION</p> <p>7 BY MS. MCARDLE:</p> <p>8 Q. Have you ever been asked about the</p> <p>9 relationship between Green Ivy Holdings and</p> <p>10 Green Ivy Educational Consulting?</p> <p>11 A. Well, when I first got that call,</p> <p>12 remember I said someone called me after the New</p> <p>13 York Post article went out, I think it was a</p> <p>14 parent, and asked is it the same Green Ivy.</p> <p>15 Q. And did they say how they had heard</p> <p>16 about Green Ivy Consulting?</p> <p>17 A. You know, I didn't ask, but I think</p> <p>18 I assumed that they Googled it. I suspect that</p> <p>19 many people Googled it after that.</p> <p>20 Q. Since that time have you been asked</p> <p>21 subsequent times about the relationship between</p> <p>22 Green Ivy Consulting and Green Ivy Holdings?</p> <p>23 A. No, I haven't.</p> <p>24 MR. BARSKY: Object to the form.</p> <p>25 A. I haven't been asked, no.</p>	<p style="text-align: right;">Page 147</p> <p>1 Q. Has GIH ever received mail for Ana</p> <p>2 Homayoun?</p> <p>3 A. No, not that I know of.</p> <p>4 Q. Has GIH ever received e-mail</p> <p>5 intended for either Green Ivy Education</p> <p>6 Consulting or Ana Homayoun?</p> <p>7 A. There was an e-mail forwarded to</p> <p>8 me. I can't remember now -- I have to look it</p> <p>9 up, but there was an e-mail forwarded to me that</p> <p>10 I think it was intended for them. It's been so</p> <p>11 long now, I can't remember who it was for. And</p> <p>12 I think I forwarded it to her.</p> <p>13 Q. Why don't we take a look at a</p> <p>14 document.</p> <p>15 A. Okay, sure.</p> <p>16 (Exhibit Exhibit 18 for</p> <p>17 identification, Requests for Admissions and</p> <p>18 Interrogatories)</p> <p>19 Q. I'm handing you Exhibit 18. If you</p> <p>20 could turn to Exhibit-- sorry, why don't we</p> <p>21 start with, do you recognize this document?</p> <p>22 A. No.</p> <p>23 Q. I will represent to you that these</p> <p>24 are the requests for admissions and first set of</p> <p>25 interrogatories served by Green Ivy Educational</p>
<p style="text-align: right;">Page 146</p> <p>1 Q. Since the initial inquiry you</p> <p>2 haven't been asked?</p> <p>3 A. No. I mean, I don't have the</p> <p>4 impression that our parent community is aware of</p> <p>5 the California Green Ivy. At least no one has</p> <p>6 come to me and talked about it.</p> <p>7 Q. Have you ever been asked as to</p> <p>8 whether there's a relationship between Green</p> <p>9 Ivy -- GIH and Green Ivy Educational Consulting</p> <p>10 by a job applicant?</p> <p>11 A. No.</p> <p>12 Q. Do you know if anyone else at your</p> <p>13 organization has been?</p> <p>14 A. No one has said it to me, so as far</p> <p>15 as I know, no.</p> <p>16 Q. Have you ever been asked about</p> <p>17 whether there's a relationship between GIH and</p> <p>18 Anna Homayoun?</p> <p>19 A. No.</p> <p>20 Q. Do you know whether anyone within</p> <p>21 your organization has ever been asked?</p> <p>22 A. Not to my knowledge.</p> <p>23 Q. Has GIH ever received mail intended</p> <p>24 for Green Ivy Educational Consulting?</p> <p>25 A. No.</p>	<p style="text-align: right;">Page 148</p> <p>1 Consulting in this matter.</p> <p>2 A. Okay.</p> <p>3 Q. Have you ever seen this document</p> <p>4 before?</p> <p>5 A. Not to my knowledge.</p> <p>6 Q. Why don't we turn to Exhibit A. Is</p> <p>7 the second e-mail in this --</p> <p>8 A. Right.</p> <p>9 Q. Do you recognize this document?</p> <p>10 A. Yes. I sent this to Ana after</p> <p>11 receiving it I think.</p> <p>12 Q. The second e-mail in this chain is</p> <p>13 an e-mail from you to Ana@GreenIvyEd.com,</p> <p>14 correct?</p> <p>15 A. Yes. On page 1 of 3 of this</p> <p>16 section of Exhibit A there's an e-mail from me</p> <p>17 to Ana forwarding the e-mail that I received.</p> <p>18 Q. The e-mail from you is dated</p> <p>19 September 17, 2013, correct?</p> <p>20 A. Yes, it is.</p> <p>21 Q. Do you recall sending that e-mail?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Can you please read the first</p> <p>24 sentence in your e-mail.</p> <p>25 A. "I think the note below is meant</p>

1 for you but was glad to have this excuse to
2 reach out. I am so impressed with what I have
3 read about you."

4 Q. And on the next page, we referenced
5 this already, but a little bit more than halfway
6 down it says "begin forwarded message," correct?

7 A. Yes.

8 Q. And below that is an e-mail that
9 you forwarded along with your e-mail, correct?

10 A. Yes.

11 Q. And that's an e-mail from Colleen
12 O'Kane to info@GreenIvy.com dated September 2,
13 2013.

14 A. Yes.

15 Q. And the subject line of that e-mail
16 is "tutoring," correct?

17 A. Correct.

18 Q. And that e-mail reflects a request
19 for information about tutoring services,
20 correct?

21 A. Yes, it does.

22 Q. What made you think that this
23 e-mail was intended for Ana?

24 A. Because we don't do tutoring. And
25 if I'm not mistaken, I mean, I don't remember

1 when the New York Post article came out, which
2 is what really made me aware of her -- I don't
3 know where it is.

4 MR. BARSKY: Exhibit 16.

5 A. No, that was in March. I was going
6 to say that article made me aware of her and of
7 what she was doing because I got a phone call
8 after that article and looked her up and I knew
9 that she offered tutoring services and we don't.
10 We don't offer anything like tutoring.

11 Q. The info@GreenIvy.com, that's the
12 e-mail address that this e-mail from Colleen
13 O'Kane was sent to, correct?

14 A. Yes. That's what it says here.

15 Q. Who receives the info@GreenIvy.com
16 e-mail?

17 A. Well, at that time I do -- did.
18 But now I have a little help.

19 Q. So who receives it now?

20 A. Right now my assistant Amy, whom I
21 mentioned earlier, Amy Ogbonna, she's copied on
22 it. I also see it. I think she's the only one
23 besides me right now who sees it.

24 Q. But you also see it?

25 A. I also see it.

1 Q. And is this the only e-mail
2 address -- only general e-mail address for the
3 school?

4 A. I'm not sure what you mean.

5 Q. Are there other e-mail addresses
6 that a prospective parent or someone looking for
7 information about the school would e-mail other
8 than info@GreenIvy.com?

9 A. Yeah, there are a number of e-mails
10 that they could use. So they could use info at,
11 they could contact any of us directly, they
12 could inquire about jobs using Careers. They
13 could register for enrichment using
14 registration. I think those are the non-name
15 specific e-mails.

16 Q. And do you monitor all of the
17 non-name specific e-mails?

18 A. No, just info@GreenIvy.

19 Q. Are you aware of any other e-mails
20 like this that have come in --

21 A. No.

22 Q. -- to GreenIvy.com? It's important
23 that we not talk over each other.

24 A. I'm sorry. My son feels the same
25 way.

1 Q. This original e-mail was dated --
2 from Colleen O'Kane was dated September 2, 2013,
3 correct?

4 A. Yes, it is.

5 Q. And you forwarded it to Ana on
6 September 17th, 2013, correct?

7 A. Yes.

8 Q. What made you wait two weeks to
9 forward it?

10 A. Well, the school opened
11 September 9, and I was sleeping about three
12 hours a night so I'm surprised I got to it that
13 quickly. That was actually a pretty quick
14 turn-around time that I was averaging around
15 that time.

16 Q. So your e-mail address ends in
17 GreenIvy.com, correct?

18 A. Currently, yes.

19 Q. And Anna's ends in GreenIvyEd.com,
20 correct?

21 A. According to this, yes.

22 Q. That's pretty close, right?

23 A. I guess so.

24 Q. Is it surprising to you that
25 there's only been one e-mail that you've seen

<p style="text-align: right;">Page 153</p> <p>1 that's confusing?</p> <p>2 A. It is.</p> <p>3 Q. You read it before but please read</p> <p>4 again the second sentence in that first</p> <p>5 paragraph of your e-mail.</p> <p>6 A. The one that starts "I realize"?</p> <p>7 Q. No, just before that.</p> <p>8 A. "I am so impressed with what I have</p> <p>9 read about you."</p> <p>10 Q. And what had you read about Ana?</p> <p>11 A. When I got the call that there was</p> <p>12 a California Green Ivy, I Googled her, or I</p> <p>13 think somebody sent me the link or something,</p> <p>14 and I saw that she spoke to parents or spoke to</p> <p>15 groups about learning issues related to</p> <p>16 children. And I remember liking the message,</p> <p>17 appreciating where she was coming from, feeling</p> <p>18 aligned with the point of view that she had.</p> <p>19 Q. Can you describe what you mean by</p> <p>20 "aligned with the point of view"?</p> <p>21 A. I remember thinking that she had a</p> <p>22 sort of child nurturing perspective. That's how</p> <p>23 I would define it. I remember thinking that she</p> <p>24 had -- I had the impression that she saw the</p> <p>25 potential in kids and that she was presenting</p>	<p style="text-align: right;">Page 155</p> <p>1 around my brand. Our first school just opened</p> <p>2 last week, and it is important to me to be able</p> <p>3 to continue to use it in relation to schools."</p> <p>4 Q. So at this time had you raised</p> <p>5 investor funding for the GIH schools?</p> <p>6 A. Yes.</p> <p>7 Q. And who were those investors?</p> <p>8 A. Same answers as before. I don't</p> <p>9 know because it all came through Jonathan.</p> <p>10 Q. And you testified earlier that the</p> <p>11 only search you did was for company and domain</p> <p>12 names, correct?</p> <p>13 A. Correct.</p> <p>14 Q. And then you raised investor</p> <p>15 funding without doing any further searching,</p> <p>16 correct?</p> <p>17 A. Correct.</p> <p>18 Q. But now you still expect to keep</p> <p>19 the name without -- despite having done no</p> <p>20 searching in addition to the domain name,</p> <p>21 correct?</p> <p>22 A. Do I expect to keep the name? Yes,</p> <p>23 I expect to keep the name.</p> <p>24 Q. Did you represent to the investors</p> <p>25 that you owned the trademark for the mark Green</p>
<p style="text-align: right;">Page 154</p> <p>1 herself as kind of an advocate for them for what</p> <p>2 they were capable of doing. I'm trying to</p> <p>3 remember what impression I had at that time.</p> <p>4 I don't know, I'm very critical in</p> <p>5 general of educators who focus too much on</p> <p>6 achievement, and I had the impression that that</p> <p>7 was not her priority, that she was more</p> <p>8 concerned about the value of the child, the</p> <p>9 encouragement, support, nurturing, positive</p> <p>10 development. Just found her message very</p> <p>11 constructive, that's all. So I felt an</p> <p>12 alignment with that general theme.</p> <p>13 Q. So your educational philosophies</p> <p>14 seemed to align?</p> <p>15 A. That was my impression based on</p> <p>16 what I read.</p> <p>17 Q. And since that initial inquiry you</p> <p>18 made, have you read further things about --</p> <p>19 A. No, I haven't had time,</p> <p>20 unfortunately. But no, I haven't.</p> <p>21 Q. -- Green Ivy education?</p> <p>22 In the fifth paragraph in this</p> <p>23 e-mail that begins with "I know you," could you</p> <p>24 read me the second sentence, please.</p> <p>25 A. "I have raised investor funding</p>	<p style="text-align: right;">Page 156</p> <p>1 Ivy?</p> <p>2 A. No.</p> <p>3 Q. Did you tell them that you had</p> <p>4 cleared trademark approval?</p> <p>5 A. No.</p> <p>6 Q. And you said you didn't even search</p> <p>7 on Google at the time to see whether the name</p> <p>8 was being used by anyone else?</p> <p>9 A. No.</p> <p>10 Q. Did you ever seek any advice as to</p> <p>11 whether that might be an issue?</p> <p>12 A. I didn't -- I really have never</p> <p>13 known much about trademarks.</p> <p>14 (Exhibit 19 for</p> <p>15 identification, GEIC 2)</p> <p>16 Q. Have you ever seen this document</p> <p>17 before?</p> <p>18 A. No.</p> <p>19 Q. I'll represent to you that this was</p> <p>20 a document provided to your counsel voluntarily</p> <p>21 by Green Ivy Educational Consulting prior to the</p> <p>22 commencement of formal discovery.</p> <p>23 Have you ever seen this document</p> <p>24 before in any capacity?</p> <p>25 A. Never.</p>

<p style="text-align: right;">Page 157</p> <p>1 Q. Could you read the address?</p> <p>2 A. Jennifer Jones, Ph.D., founder and</p> <p>3 CEO, Green Ivy Educational Consulting, 302</p> <p>4 something Street, suite 201, Los Altos,</p> <p>5 California.</p> <p>6 Q. That's your name that it's</p> <p>7 addressed to, correct?</p> <p>8 A. Yes.</p> <p>9 Q. But it's also addressed to Green</p> <p>10 Ivy Educational Consulting.</p> <p>11 A. Yes, it is.</p> <p>12 Q. At an address in California,</p> <p>13 correct?</p> <p>14 A. Yes, it is, mm-hmm.</p> <p>15 Q. So that's not Green Ivy Holdings'</p> <p>16 address, is it?</p> <p>17 A. No, it isn't.</p> <p>18 Q. Do you know what Structure Tone</p> <p>19 Organization Journal is?</p> <p>20 A. I have no idea.</p> <p>21 Q. Do you have any idea as to why they</p> <p>22 would be sending you mail?</p> <p>23 A. I believe Structure -- well, I'm</p> <p>24 familiar with a Structure Tone. It's a</p> <p>25 construction company. But I don't know what</p>	<p style="text-align: right;">Page 159</p> <p>1 Q. Let's go back for a moment to I</p> <p>2 believe it's 18, Exhibit 18. I believe you said</p> <p>3 before that you've never seen this document, is</p> <p>4 that correct?</p> <p>5 A. Correct.</p> <p>6 Q. But we discussed that it is -- I</p> <p>7 represented to you that it is Green Ivy</p> <p>8 Educational Consulting's request for admissions</p> <p>9 and first set of interrogatories in this action,</p> <p>10 correct?</p> <p>11 A. Yes.</p> <p>12 Q. Are you aware that this document</p> <p>13 was sent to GIH in connection with this matter?</p> <p>14 A. No.</p> <p>15 Q. Were you asked to provide</p> <p>16 information responsive to questions from Green</p> <p>17 Ivy Educational Consulting at any point?</p> <p>18 A. Jonathan asked me to provide</p> <p>19 documentation of when I created the name Green</p> <p>20 Ivy. It's the only thing I've been asked for.</p> <p>21 Q. If you could turn to page 6,</p> <p>22 paragraph 5, could you read paragraph 5, please.</p> <p>23 A. "Identify all persons known to</p> <p>24 applicant who took part in, or were responsible</p> <p>25 for, i, the creation of the marks, ii, the</p>
<p style="text-align: right;">Page 158</p> <p>1 Structure Tone Organization Journal is. I've</p> <p>2 never heard of that.</p> <p>3 Q. Why would Structure Tone have sent</p> <p>4 you mail as the founder and CEO of Green Ivy</p> <p>5 Educational Consulting?</p> <p>6 MR. BARSKY: Object to the form.</p> <p>7 A. I have no way of knowing that.</p> <p>8 Q. Has GIH ever been asked about Green</p> <p>9 Ivy Schools' tutoring services?</p> <p>10 A. No one's asked me about tutoring</p> <p>11 services. In the company.</p> <p>12 Q. Has anyone outside the company ever</p> <p>13 talked to you about tutoring services?</p> <p>14 A. No one has ever talked to me about</p> <p>15 tutoring services, period.</p> <p>16 Q. Has GIH ever been asked about Green</p> <p>17 Ivy Schools' consulting services?</p> <p>18 A. Sorry. Has GIH ever been asked</p> <p>19 about Green Ivy Schools' consulting services?</p> <p>20 You mean has anyone ever used the phrase "Green</p> <p>21 Ivy Schools' consulting services"?</p> <p>22 Q. Has GIH ever been asked about</p> <p>23 consulting services, whether it provides</p> <p>24 consulting services?</p> <p>25 A. Oh, not to my knowledge. No.</p>	<p style="text-align: right;">Page 160</p> <p>1 selection of the marks for use in connection</p> <p>2 with applicant's services, iii, adoption of the</p> <p>3 marks for use in connection with applicant's</p> <p>4 services, and iv, the earliest use, if any, of</p> <p>5 the marks in connection with applicant's</p> <p>6 services."</p> <p>7 Q. Could you tell me all of the people</p> <p>8 who to your knowledge took part in or were</p> <p>9 responsible in these four items?</p> <p>10 A. All of the people who were</p> <p>11 responsible for these four items. Okay,</p> <p>12 creation of the marks. So that means all of the</p> <p>13 people who were responsible for creation of the</p> <p>14 three marks in the applications?</p> <p>15 Q. Yes.</p> <p>16 A. Okay, so me, my original attorney,</p> <p>17 whose name I can't remember, Jonathan. And</p> <p>18 that's it. Okay, that's i. "Selection of the</p> <p>19 marks for use in connection with applicant's</p> <p>20 services." I'm not sure I understand that one.</p> <p>21 Q. Why don't I rephrase. I asked them</p> <p>22 all together because I think that there's a lot</p> <p>23 of overlap between these four. So aside from</p> <p>24 yourself and Jonathan, is there anyone else that</p> <p>25 was involved in the creation, selection or the</p>

<p style="text-align: right;">Page 161</p> <p>1 beginning of the use of the marks?</p> <p>2 A. No.</p> <p>3 Q. How about the earliest use of the</p> <p>4 marks, aside from the two of you, would there</p> <p>5 have been anyone else involved in it?</p> <p>6 A. No, it would be all me.</p> <p>7 Q. But you can't remember when the</p> <p>8 earliest use of the marks was.</p> <p>9 A. No, I can't.</p> <p>10 Q. And if you'd turn to paragraph 32,</p> <p>11 interrogatory 32, it reads, "Identify each</p> <p>12 person who participated in the preparation of</p> <p>13 applicant's responses to the foregoing</p> <p>14 interrogatories. Furnish any information in</p> <p>15 response thereto."</p> <p>16 I'm going to mark another document</p> <p>17 as Exhibit 20.</p> <p>18 (Exhibit 20 for</p> <p>19 identification, Response to Request for</p> <p>20 Admissions and Interrogatories)</p> <p>21 Q. Have you ever seen this document</p> <p>22 before?</p> <p>23 A. No.</p> <p>24 Q. Would you read me the title,</p> <p>25 please.</p>	<p style="text-align: right;">Page 163</p> <p>1 Q. So Jonathan Sanchez Jimenez prepared</p> <p>2 Green Ivy Holdings's responses to this request,</p> <p>3 correct?</p> <p>4 A. I don't know. I have to go by what</p> <p>5 it says here.</p> <p>6 Q. That's what it says here, correct?</p> <p>7 A. That's what it says here.</p> <p>8 Q. Would you have expected to be</p> <p>9 consulted in questions about Green Ivy Holdings'</p> <p>10 activities for this matter?</p> <p>11 A. I was. He asked me for</p> <p>12 documentation about the name.</p> <p>13 Q. But not in response to any of these</p> <p>14 questions.</p> <p>15 A. Which questions?</p> <p>16 Q. Let's flip back to Exhibit 19.</p> <p>17 Page 5. Sorry, 18, page 6.</p> <p>18 A. Okay.</p> <p>19 Q. There's a heading that says</p> <p>20 "interrogatories."</p> <p>21 A. Yes.</p> <p>22 Q. Then there are a number of</p> <p>23 questions that follow, correct?</p> <p>24 A. Yes.</p> <p>25 Q. Feel free to take your time to read</p>
<p style="text-align: right;">Page 162</p> <p>1 A. "Applicant's response to first</p> <p>2 requests for admissions and unverified responses</p> <p>3 to opposer's first interrogatories."</p> <p>4 Q. And the applicant is Green Ivy</p> <p>5 Holdings, correct?</p> <p>6 A. Yes.</p> <p>7 Q. So this is Green Ivy's responses to</p> <p>8 the document we were just reviewing at Exhibit</p> <p>9 19, correct?</p> <p>10 A. I don't know.</p> <p>11 MR. BARSKY: I'll stipulate to</p> <p>12 that.</p> <p>13 Q. So if you'll turn to -- we were</p> <p>14 just looking at number 32, correct, in Exhibit</p> <p>15 19?</p> <p>16 A. Yes.</p> <p>17 Q. "Identify each person who</p> <p>18 participated in the preparation of applicant's</p> <p>19 responses to the foregoing interrogatories."</p> <p>20 A. Yes.</p> <p>21 Q. And if you'll turn to 32 on page 5</p> <p>22 of Exhibit 20, would you read the response</p> <p>23 there.</p> <p>24 A. "Jonathan Jimenez and Dan J. Barsky,</p> <p>25 Esq., counsel for Green Ivy."</p>	<p style="text-align: right;">Page 164</p> <p>1 through if you need to.</p> <p>2 A. Mm-hmm.</p> <p>3 Q. Would you have expected to have</p> <p>4 been consulted in preparing Green Ivy Holdings'</p> <p>5 responses to questions like this in connection</p> <p>6 with a legal matter?</p> <p>7 A. I was. He asked me to provide</p> <p>8 documentation around the naming of Green Ivy.</p> <p>9 Q. But you weren't consulted in</p> <p>10 connection with any of the individual questions,</p> <p>11 were you?</p> <p>12 A. I would have to review the</p> <p>13 questions. Do you want me to go through them?</p> <p>14 Q. Feel free.</p> <p>15 A. (The witness reviews the document.)</p> <p>16 Paragraph number 2 says, "State the</p> <p>17 date applicant was incorporated and states which</p> <p>18 applicant is qualified or licensed to do</p> <p>19 business." So Jonathan asked me to provide</p> <p>20 documentation about the incorporation of the</p> <p>21 business, which I did.</p> <p>22 3 says, "Describe the corporate</p> <p>23 structure of the applicant and owner of GIH."</p> <p>24 Jonathan would be capable of doing that without</p> <p>25 consulting me, so I wouldn't expect him to</p>

41 (Pages 161 to 164)

<p style="text-align: right;">Page 165</p> <p>1 consult me on that.</p> <p>2 4 is "identify and describe any</p> <p>3 investors in GIH." And because Jonathan is</p> <p>4 responsible for managing the investment, I</p> <p>5 wouldn't expect him to consult me since I</p> <p>6 wouldn't, as you now know, be able to answer any</p> <p>7 of those questions intelligently.</p> <p>8 5, "Identify all persons known to</p> <p>9 applicant who took part in or were responsible</p> <p>10 for." We've been through that one. Jonathan</p> <p>11 did consult me on that and I gave him the</p> <p>12 answers that gave you.</p> <p>13 6 is state whether -- in response</p> <p>14 to number 6 on page 6, he did ask me and I</p> <p>15 provided him the documentation around all</p> <p>16 searches that were done on the name. So that I</p> <p>17 did.</p> <p>18 All the sub items under number 6,</p> <p>19 A, B, C and D, he did ask me and I did provide</p> <p>20 the documentation that you and I reviewed</p> <p>21 earlier.</p> <p>22 Number 7 on page 7, I wouldn't</p> <p>23 expect him to consult me on that because we did</p> <p>24 intend to use the marks. So I wouldn't expect</p> <p>25 him to consult me on that one.</p>	<p style="text-align: right;">Page 167</p> <p>1 9-E, we discussed how we used the</p> <p>2 name to promote the school.</p> <p>3 9-F, the geographic areas, lower</p> <p>4 Manhattan, that hasn't changed.</p> <p>5 Then number 10 -- should I keep</p> <p>6 going?</p> <p>7 Q. Sure. If there are other things</p> <p>8 that he consulted you on, please let me know.</p> <p>9 A. 10, so in 10 he was an active part</p> <p>10 of these conversations around the use and the</p> <p>11 development of the program. So he wouldn't</p> <p>12 really need to consult me on these things.</p> <p>13 On 11, again, he was an active part</p> <p>14 of those discussions around projected use of the</p> <p>15 name. So he would know as well as I would what</p> <p>16 the answer would be to that.</p> <p>17 12, he was a part of the discussion</p> <p>18 around intended customers so he would know that.</p> <p>19 13, he wouldn't need to consult me</p> <p>20 because our channels were very limited. He was</p> <p>21 aware of them. Same for 14, he was aware.</p> <p>22 He asked me about 15, he asked me</p> <p>23 to provide documentation about the purchase of</p> <p>24 the URL.</p> <p>25 16, I believe he did ask me if we</p>
<p style="text-align: right;">Page 166</p> <p>1 On number 8, identify all the steps</p> <p>2 that I'd taken. He did ask me about the history</p> <p>3 of use, just as you have asked me today. So all</p> <p>4 the answers that I gave to you today about the</p> <p>5 early advertising for Battery Park Montessori</p> <p>6 and things like that he and I discussed. So he</p> <p>7 did consult me on that one.</p> <p>8 On 9 -- 9-A, we discussed the first</p> <p>9 use of the marks. I don't remember exactly what</p> <p>10 we discussed but I'm pretty sure it was around</p> <p>11 the info sessions and the use of Green Ivy on</p> <p>12 material for Pine Street School when we were</p> <p>13 really more forward with the name Green Ivy.</p> <p>14 9-B, I wouldn't expect him to</p> <p>15 consult me on that. I gave him all the</p> <p>16 information that I gave you.</p> <p>17 9-C, he wouldn't need to consult me</p> <p>18 about annual sales. He could consult Barb</p> <p>19 directly because she's the person who owns that</p> <p>20 information about sales or financials.</p> <p>21 Q. Do you know whether he did consult</p> <p>22 with Barb?</p> <p>23 A. I don't.</p> <p>24 9-D, we discussed how the marks</p> <p>25 were used.</p>	<p style="text-align: right;">Page 168</p> <p>1 had documentation of traffic, and I didn't.</p> <p>2 17, wouldn't need to consult me</p> <p>3 because Barb is the person who provides</p> <p>4 financial information.</p> <p>5 18, he did ask me about all the</p> <p>6 ways that we had advertising and I gave him all</p> <p>7 the answers that I gave you today.</p> <p>8 19, he asked me about any material</p> <p>9 that had been used for publicity and I had given</p> <p>10 the answers that I gave you today.</p> <p>11 20, he was a part of the decision</p> <p>12 to work with a PR agency, and he knew that we</p> <p>13 didn't have a marketing firm so he wouldn't need</p> <p>14 to consult me on that.</p> <p>15 21 I don't think is relevant. 22,</p> <p>16 I don't think it's relevant so he wouldn't have</p> <p>17 consulted with me on that.</p> <p>18 23, I believe he did ask me if I</p> <p>19 had received any correspondence for Ana or her</p> <p>20 firm and I told him what I told you.</p> <p>21 I don't know that he asked me has</p> <p>22 anyone confused you with Ana, but it was clear</p> <p>23 in our discussion that no one had.</p> <p>24 Number 25, he didn't ask me</p> <p>25 explicitly about this but he knows -- those</p>

42 (Pages 165 to 168)

<p style="text-align: right;">Page 169</p> <p>1 things we discuss if and when they happen. 2 26, he did ask me this and I told 3 him what I've told you. And 27, likewise, we 4 discussed that. 5 28, he asked me that. 6 Q. What was your response? 7 A. The same because it's tied to the 8 prior questions. 27 and 26, he knew that as a 9 result of that article that someone reached out 10 to us to say are you the same Green Ivy. It's 11 very legal to me, I'm not sure I understand it. 12 I don't understand 29. You want to 13 help me with that one or do you want to skip it? 14 Q. Go on to 30 if you'd like. 15 A. I'm also not sure I understand 30. 16 31, I think I understand 31. I 17 can't say that we discussed the confusion. I 18 don't think there has been a perception that 19 there has been confusion. We don't have any 20 evidence that there has been confusion. 21 I think I addressed all of them. 22 Q. Mr. Sanchez Jimenez is not an 23 employee of GIH, correct? 24 A. Correct. 25 Q. Does he have any kind of a title</p>	<p style="text-align: right;">Page 171</p> <p>1 Q. Do you have an equity stake in GIH? 2 A. I believe that I do. 3 Q. What's your understanding of what 4 that means? 5 A. I don't think it's finalized yet, 6 so I don't think technically it's in writing and 7 signed and done. 8 Q. What's your understanding of the 9 equity stake that you could obtain in GIH? 10 A. I'm really not completely sure. 11 I'd rather have it in front of me. 12 Q. And when you say "have it in front 13 of me," what are you referring to? 14 A. I'd rather have those terms in 15 writing in front of me before I discuss them 16 because I'm just not sure. 17 Q. Do you have a document in your 18 possession at some point with those terms? 19 A. Not yet. I have seen a draft of a 20 document. 21 Q. And who provided you with that 22 document? 23 A. Jonathan. 24 Q. Do you have an understanding of 25 when you will likely have final terms on such a</p>
<p style="text-align: right;">Page 170</p> <p>1 with respect to GIH? 2 A. No. 3 Q. Yet it appears from your answers 4 that he is very deeply involved in GIH, correct? 5 A. Very. 6 Q. Does he have any equity stake in 7 GIH? 8 A. I don't know. 9 Q. You don't know whether he has an 10 equity stake? 11 A. No, I don't know. 12 Q. How are equity stakes in GIH 13 apportioned? 14 A. I have no idea. 15 Q. You're the founder and CEO of GIH, 16 right? 17 A. Well, I'm the founder and managing 18 member. I'm not a CEO. I don't think I can be 19 in an LLC. 20 Q. So you're the founder and managing 21 member. 22 A. Yes. 23 Q. Of GIH. But you don't know how 24 equity stakes are apportioned in GIH? 25 A. No.</p>	<p style="text-align: right;">Page 172</p> <p>1 document? 2 A. I don't. I would expect it to be 3 within the next six months. 4 Q. Is there any event that the 5 completion of -- the finalization of your equity 6 stake is contingent on? 7 A. No. 8 Q. Do you know what the weight for -- 9 A. I don't know if I have an equity 10 stake yet because I don't have a signed 11 document. So I don't have a contract. 12 Q. Do you have an understanding with 13 anyone as to what the equity stake would be? 14 A. Not yet. 15 Q. Who decides who obtains an equity 16 stake in GIH? 17 A. Jonathan with the investors. 18 Q. And are you currently being 19 compensated for your work at GIH? 20 A. I receive a guaranteed payment. 21 Q. Is that a yearly payment? 22 A. It's a monthly payment. 23 Q. And is that pursuant to any kind of 24 an agreement with GIH? 25 A. I don't have any signed agreement</p>

1 with GIH right now.

2 Q. Do any of the investors hold any
3 title with respect to GIH?

4 A. I have no idea.

5 Q. Who is in charge of the
6 organization of GIH?

7 A. I don't know what you mean by that.

8 Q. As a company, as a legal entity,
9 who is in charge of the organization of GIH?

10 A. I don't know.

11 Q. You did sign the documents as the
12 member on the foundational documents, correct?

13 A. Yes, correct. I am a managing
14 member in the corporation.

15 Q. Do you know whether there are
16 annual sales numbers compiled for GIH?

17 A. No idea.

18 Q. Are you aware of any other metrics
19 used to measure revenue for GIH?

20 A. There is a P&L statement.

21 Q. Have you ever seen that P&L
22 statement?

23 A. Mm-hmm.

24 Q. What are the revenues -- what were
25 the revenues of GIH last year?

1 understanding, I think we can go off the
2 record -- or we can go to your questions if you
3 have any.

4 MR. BARSKY: I just have a couple
5 of quick ones.

6 EXAMINATION

7 BY MR. BARSKY:

8 Q. We had talked a lot about schools
9 that were open, plural. I want to make sure the
10 record is clear. There is only one school
11 currently open, correct?

12 A. Yes.

13 Q. And the Pine Street School we
14 discussed is not open and not scheduled to be
15 opened until sometime this fall 2014, correct?

16 A. Correct.

17 Q. There were also a lot of questions
18 about how you might use the mark in the future.
19 And you answered those, but just to be clear,
20 those are all the things that are in the
21 planning stages, correct?

22 A. Correct.

23 Q. And those plans may change
24 depending on future events?

25 A. Correct.

1 MR. BARSKY: Object to the form.

2 A. I do not remember. I don't
3 remember.

4 Q. Was it over a million?

5 A. I don't remember.

6 MS. MCARDLE: Why don't we take a
7 quick break.

8 (Recess taken.)

9 MS. MCARDLE: I just have a couple
10 of things I'm going to put on the record.
11 Otherwise I don't have any further questions. I
12 know that over the course of today's deposition
13 we talked about potential additional documents
14 that GIH is going to search for. I just want to
15 reserve the right -- any rights that we have
16 with respect to challenging discovery in this
17 matter and any remedies that Green Ivy
18 Educational Consulting may have with respect to
19 discovery in this matter. We're in no way
20 waiving any of those remedies.

21 MR. BARSKY: Of course if there are
22 additional documents that you want to depose
23 somebody on, I'm happy to produce a witness that
24 you can depose.

25 MS. MCARDLE: With that

1 Q. There was a question about the
2 internal use of the mark with respect to
3 e-mails. Your e-mail address is GreenIvy.com,
4 correct?

5 A. Correct.

6 Q. So technically every e-mail that
7 you send has the Green Ivy mark as part of it
8 when it includes your e-mail, correct?

9 A. Correct.

10 Q. Similarly, there were a lot of
11 questions about the website and where the mark
12 appears on the website. The domain name for the
13 website is GreenIvySchools.com, correct?

14 A. Correct.

15 Q. So technically every page has Green
16 Ivy Schools on it.

17 A. Correct.

18 Q. Lastly, you were asked about your
19 e-mail address with respect -- domain name with
20 respect to the opposer's domain name and how
21 yours is GreenIvy.com and hers is
22 GreenIvyEd.com. Do you remember that?

23 A. Yes.

24 Q. I think the questions got a little
25 muddled. You were asked about whether or not

1 you thought the domain names were similar,
2 correct?

3 A. I think I was asked that, yes.

4 Q. And there was a series of questions
5 there as well regarding the one e-mail that you
6 received that you think was probably intended
7 for the opposer, correct?

8 A. Correct.

9 Q. I think there was a question in
10 there about whether or not you were surprised
11 that you had received only one e-mail.

12 A. Mm-hmm.

13 Q. Are you actually surprised that
14 there has not been more confusion between the
15 two companies?

16 A. I haven't seen any confusion
17 between the companies with the exception of that
18 one e-mail. So I don't know how to qualify
19 that. I have gotten no feedback indicating that
20 anybody confuses what Ana's doing with what
21 we're doing.

22 Q. And by "Ana" you're referring to --

23 A. I'm sorry, Green Ivy Education.

24 MR. BARSKY: I have nothing
25 further.

1 WITNESS: _____
2 DATE(S): _____
3 CASE: _____
4 I wish to make the following changes, for the
5 following reasons:

6 PAGE LINE _____
7 _____ CHANGE FROM: _____
8 _____ CHANGE TO: _____

9 REASON: _____
10 _____ CHANGE FROM: _____
11 _____ CHANGE TO: _____

12 REASON: _____
13 _____ CHANGE FROM: _____
14 _____ CHANGE TO: _____

15 REASON: _____
16 _____ CHANGE FROM: _____
17 _____ CHANGE TO: _____

18 REASON: _____
19 _____ CHANGE FROM: _____
20 _____ CHANGE TO: _____

21 REASON: _____
22 _____ CHANGE FROM: _____
23 _____ CHANGE TO: _____

24 REASON: _____
25 _____ CHANGE FROM: _____
_____ CHANGE TO: _____

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_____ REASON: _____
_____ CHANGE FROM: _____
_____ CHANGE TO: _____

_____ REASON: _____
_____ CHANGE FROM: _____
_____ CHANGE TO: _____

Subscribed and sworn to before me this _____ day
of _____, 2014.

1 MS. MCARDLE: Okay. We're done.
2 (TIME NOTED: 2:26 p.m.)

3 JENNIFER JONES

4
5
6 Subscribed and sworn to before me
7 this _____ day of _____, 2014.

8
9 _____
10 Notary Public

1 CERTIFICATE

2
3 STATE OF NEW YORK)
4 : SS.
5 COUNTY OF NEW YORK)

6
7 I, SUZANNE PASTOR, a Shorthand
8 Reporter and Notary Public within and for the
9 State of New York, do hereby certify:

10 That JENNIFER JONES, the witness whose
11 deposition is hereinbefore set forth, was duly
12 sworn by me and that such deposition is a true
13 record of the testimony given by the witness.

14 I further certify that I am not
15 related to any of the parties to this action by
16 blood or marriage, and that I am in no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand this May 1, 2014.

20
21 _____
22 SUZANNE PASTOR
23
24
25

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

-----X
Green Ivy Educational Consulting, LLC, :
 :
Opposer, : Opposition No. 91211873
 :
v. : Serial Nos.: 85775379, 85775380
 : and 85775382
 :
Green Ivy Holdings LLC, : Marks: GREEN IVY, GREEN
 : IVY SCHOOLS and GREEN
Applicant. : IVY LEARNING
-----X

**DECLARATION OF EMILY MORROW IN SUPPORT OF
OPPOSER'S MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

EMILY MORROW, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like may jeopardize the validity of this document, declares that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true:

1. I served as the office manager of Green Ivy Educational Consulting, LLC ("GIEC" or "Opposer") from approximately March 2010 until August 2013.

2. I make this declaration in support of GIEC's motion for sanctions and for summary judgment.

3. On or about March 30, 2013, GIEC received a phone call at its Los Altos, CA office location, which I answered.

4. The call was a solicitation, and the woman calling told me that I was just the person she wanted to speak with, suggesting that she had looked up the GIEC website (domain

address: <http://www.greenivyed.com.com>) and found my biography and role within the company.


5. The caller stated that she understood GIEC to be opening a school on Wall Street in New York, NY, and inquired about whether her company could work with us as a vendor.

6. At the time, I was confused by the call, as I did not understand why the caller would think GIEC was opening a school on Wall Street.

7. After receiving the call, I informed GIEC's founder, Ana Homayoun, about the call, and we discovered that a separate entity (which I now understand to be the applicant here, Green Ivy Holdings LLC) intends to open a school on Wall Street using the Green Ivy name.

Dated: San Francisco, California

June 16, 2014


Emily Morrow

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

----- X
Green Ivy Educational Consulting, LLC, :
 :
Opposer, : Opposition No. 91211873
 :
v. : Serial Nos.: 85775379, 85775380
 : and 85775382
 :
Green Ivy Holdings LLC, : Marks: GREEN IVY, GREEN
 : IVY SCHOOLS and GREEN
Applicant. : IVY LEARNING
----- X

**DECLARATION OF NICHOLAS R. GILLON IN SUPPORT OF
OPPOSER’S MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT**

NICHOLAS R. GILLON, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements and the like may jeopardize the validity of this document, declares that all statements made herein of my own knowledge are true; and that all statements made herein on information and belief are believed to be true:

1. I make this declaration in support of Green Ivy Educational Consulting, LLC’s (“GIEC” or “Opposer”) motion for sanctions and for summary judgment.

2. I am the Education Director at The Phoenix Rising School, an independent school in rural Washington State. I am also a doctoral student and course instructor at the College of Education, and adjunct faculty member at the South Puget Sound Community College in Olympia, Washington. I also act as a researcher and consultant on early childhood and family issues.

3. In all of these roles, I frequently seek out connections with other researchers and educators, as well as information on educational services, other K-12 and higher ed. programs, and educational research conferences.

4. One of the venues in which I seek this information is the International Baccalaureate school's website (<https://www.ibo.org/school>). I remember viewing a job posting for a school called "Green Ivy" at 40 Wall Street in New York City on that site. I researched the school briefly using Google but did not spend much further thought on it at the time.

5. A day or so later, however, I was working on a research fellowship project and reviewing the Learning and the Brain Conference in San Francisco, was set to take place on February 14, 2014. In doing so I noticed the name of GIEC, a company whose founder, Ana Homayoun, was to speak at the upcoming conference.

6. At the time, I assumed there was a connection between GIEC and the Wall Street Green Ivy school, and wondered if it was a company with a nationwide presence and how the connection had come about.

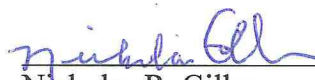
7. I asked Ms. Homayoun for an interview to discuss her views on neuroscience and classroom teaching, and she agreed.

8. As the interview progressed, I heard Ms. Homayoun describe a stronger emphasis on learning process skills and students' personal goal-setting than I had understood to be in place at the school in New York City. I began to wonder whether I had been correct in my assumption of a connection, as it seemed to me odd to have two companies in the same field with the same name offering educational services with these different perspectives.

9. After the interview, I asked Ms. Homayoun if GIEC and the Wall Street Green Ivy school were connected, and she explained that the two entities were not connected, though she communicated that mine was not the only instance of confusion between the two.

Dated: Olympia, Washington

6 / 16, 2014



Nicholas R. Gillon

CERTIFICATE OF SERVICE
(37 C.F.R. § 2.119)

I declare under penalty of perjury that on the 18th day of June, 2014, OPPOSER'S MOTION FOR SANCTIONS AND FOR SUMMARY JUDGMENT, as well as the Declaration of Anahita Homayoun, the Declaration of Jennifer Philbrick McArdle, the Declaration of Emily Morrow, and the Declaration of Nicholas R. Gillon were served on applicant, GREEN IVY HOLDINGS LLC, by delivering a true and correct copy, by First Class Mail, postage prepaid, to:

Daniel Barsky
Shutts & Bowen LLP
525 Okeechobee Boulevard, Suite 1100
West Palm Beach, Florida 33401

Joseph R. Englander
Shutts & Bowen LLP
200 E. Broward Blvd. Ste. 2100
Fort Lauderdale, Florida 33301-1972


Jennifer Philbrick McArdle